storage casks'' to include Amendment No. 3 to Certificate of Compliance No. 1042.

DATES: The effective date of July 17, 2023, for the direct final rule published May 2, 2023 (88 FR 27397), is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2023–0050 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0050. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The Amendment No. 3 of certificate of compliance No. 1042 and associated changes to the technical specifications, and safety evaluation report can also be viewed in ADAMS under Package Accession No. ML23137A409.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. eastern time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Caylee Kenny, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7150, email: *Caylee.Kenny@nrc.gov.*

SUPPLEMENTARY INFORMATION: On May 2, 2023 (88 FR 27397), the NRC published a direct final rule amending its regulations in part 72 of title 10 of the *Code of Federal Regulations* to revise the TN Americas LLC, NUHOMS® EOS Dry Spent Fuel Storage System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 3 to Certificate of Compliance No. 1042.

Amendment No. 3 revises the certificate of compliance to: add three new heat load zone configurations (HLZCs) for the EOS–89BTH Dry Shielded Canister (DSC) with increased heat load up to 1.7 kW per fuel assembly, which reduces the minimum cooling time to 1 year; add a variable-lead thickness EOS–TC125 for transfer with the EOS–89BTH DSC; add ATRIUM 11 fuel as an allowable content in the EOS–89BTH DSC and rerun the limiting GNF2 and ABB–10–C cases to reduce the statistical uncertainties and increase the enrichment limits; update the criticality evaluation to allow short-loading the EOS–89BTH DSC with less than 89 fuel assemblies to increase the enrichment limits; revise the technical specifications (TS) to allow for phased array automated ultrasonic testing and to utilize a single pass high amperage gas tungsten arc weld or multipass gas tungsten arc weld on the outer top cover plate; revise the TS to reduce EOS–37PTH HLZC 1 and 2 time limit for transfer to eight hours; incorporate a method to determine new loading patterns based on the maximum allowable heat load per DSC and per location specified in the TS and move all HLZCs and time limits for transfer for the EOS–89BTH DSC transferred in the EOS–TC125 from the technical specifications to Updated Final Safety Analysis Report (UFSAR) Chapter 2; waive the fabrication pressure test requirement for the single bottom forging EOS–DSCs; and make minor changes to TS and UFSAR for consistency among DSC types and terminology clarification. Amendment No. 3 also revises the certificate of compliance with three scope changes including: UFSAR revisions associated with transfer cask lifting heights and consideration of severe weather; UFSAR revisions associated with maintaining water in the annulus; and design changes to the Matrix Loading Crane.

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on July 17, 2023. The NRC did not receive any comments on the direct final rule. Therefore, this direct final rule will become effective as scheduled.

Dated: June 9, 2023.

For the Nuclear Regulatory Commission.

Krupskaya T. Castellon,

Acting Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2023–12709 Filed 6–14–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

[NRC–2021–0024]

RIN 3150–AK58

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2023

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, special project, and annual fees charged to its applicants and licensees. These amendments are necessary to comply with the Nuclear Energy Innovation and Modernization Act, which requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of its annual budget less certain amounts excluded from this fee-recovery requirement.

DATES: This final rule is effective on August 14, 2023.

ADDRESSES: Please refer to Docket ID NRC–2021–0024 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0024. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209 or

301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. eastern time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Anthony Rossi, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–7341; email: *Anthony.Rossi@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background; Statutory Authority

The NRC's fee regulations are primarily governed by two laws: (1) the Independent Offices Appropriation Act, 1952 (IOAA) (31 U.S.C. 9701), and (2) the Nuclear Energy Innovation and Modernization Act (NEIMA) (42 U.S.C. 2215). The IOAA authorizes and encourages Federal agencies to recover, to the fullest extent possible, costs attributable to services provided to identifiable recipients. Under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of its annual budget, less the budget authority for excluded activities. Under section 102(b)(1)(B) of NEIMA, ''excluded activities'' include any fee-relief activity as identified by the Commission, generic homeland security activities, waste incidental to reprocessing activities, Nuclear Waste Fund activities, advanced reactor regulatory infrastructure activities, Inspector General services for the Defense Nuclear Facilities Safety Board, research and development at universities in areas relevant to the NRC's mission, and a nuclear science and engineering grant program. In fiscal year (FY) 2023, the fee-relief activities identified by the Commission are consistent with prior fee rules, which are listed in Table 1—Excluded Activities.

Under NEIMA, the NRC must use its IOAA authority first to collect service fees for NRC work that provides specific benefits to identifiable recipients (such as licensing work, inspections, and special projects). The NRC's regulations in part 170 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended,'' explain how the agency collects service fees from specific beneficiaries. Because the NRC's fee recovery under the IOAA (10 CFR part 170) will not equal 100 percent of the agency's total budget authority for the fiscal year (less the budget authority for excluded activities), the NRC also assesses ''annual fees'' under 10 CFR part 171, ''Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC,'' to recover the remaining amount necessary to comply with NEIMA.

II. Discussion

FY 2023 Fee Collection—Overview

The NRC is issuing this FY 2023 final fee rule based on the Consolidated Appropriations Act, 2023 (the enacted budget). The final fee rule reflects a total budget authority in the amount of $927.2 million, which is an increase of $39.5 million from FY 2022. As explained previously, certain portions of the NRC's total budget authority for the fiscal year are excluded from NEIMA's fee-recovery requirement under section 102(b)(1)(B) of NEIMA. Based on the FY 2023 enacted budget, these exclusions total $137.0 million, which is an increase of $6.0 million from FY 2022. These excluded activities consist of $97.1 million for fee-relief activities, $23.8 million for advanced reactor regulatory infrastructure activities, $13.4 million for generic homeland security activities, $1.2 million for waste incidental to reprocessing activities, and $1.5 million for Inspector General services for the Defense Nuclear Facilities Safety Board. Table I summarizes the excluded activities for the FY 2023 final fee rule. The FY 2022 amounts are provided for comparison purposes.

TABLE I—EXCLUDED ACTIVITIES

[Dollars in millions]

	FY 2022 final rule	FY 2023 final rule
Fee-Relief Activities:		
International activities	25.5	28.8
Agreement State oversight	11.1	11.9
Medical isotope production infrastructure	3.7	3.5
Fee exemption for nonprofit educational institutions	11.6	13.5
Costs not recovered from small entities under 10 CFR 171.16(c)	7.4	8.9
Regulatory support to Agreement States	12.1	14.2
Generic decommissioning/reclamation activities (not related to the operating power reactors and spent fuel storage fee classes)	15.9	12.5
Uranium recovery program and unregistered general licensees	3.0	2.7
Potential Department of Defense remediation program Memorandum of Understanding activities	0.9	0.9
Non-military radium sites	0.3	0.2
Subtotal Fee-Relief Activities	91.5	97.1
Activities under section 102(b)(1)(B)(ii) of NEIMA (Generic Homeland Security activities, Waste Incidental to Reprocessing activities, and the Defense Nuclear Facilities Safety Board)	16.5	16.1

TABLE I—EXCLUDED ACTIVITIES—Continued

[Dollars in millions]

	FY 2022 final rule	FY 2023 final rule
Advanced reactor regulatory infrastructure activities	23.0	23.8
Total Excluded Activities	131.0	137.0

After accounting for the exclusions from the fee-recovery requirement and net billing adjustments (*i.e.,* for FY 2023 invoices that the NRC estimates will not be paid during the fiscal year, less payments received in FY 2023 for prior-year invoices), the NRC must recover approximately $790.6 million in fees in FY 2023. Of this amount, the NRC estimates that $195.0 million will be recovered through 10 CFR part 170 service fees and approximately $595.6 million will be recovered through 10 CFR part 171 annual fees. Table II summarizes the fee-recovery amounts for the FY 2023 final fee rule using the FY 2023 enacted budget and takes into account the budget authority for excluded activities and net billing adjustments. For all information presented in the following tables in this final rule, individual values may not sum to totals due to rounding. Please see the work papers, available as indicated in the ''Availability of Documents'' section of this document, for actual amounts.

In FY 2023, the explanatory statement associated with the Consolidated Appropriations Act, 2023 included direction for the NRC to use $16.0 million in prior-year unobligated carryover funds for the University Nuclear Leadership Program. Consistent with the requirements of NEIMA, the NRC does not assess fees in the current fiscal year for any carryover funds because fees are calculated based on the budget authority enacted for the current fiscal year. Fees were already assessed in the fiscal year in which the carryover funds were appropriated. The FY 2022 amounts are provided for comparison purposes.

TABLE II—BUDGET AND FEE RECOVERY AMOUNTS

[Dollars in millions]

	FY 2022 final rule	FY 2023 final rule
Total Budget Authority	$887.7	$927.2
Less Budget Authority for Excluded Activities:	−131.0	−137.0
Balance	756.7	790.2
Fee Recovery Percent	100.0	100.0
Total Amount to be Recovered:	756.7	790.2
Less Estimated Amount to be Recovered through 10 CFR part 170 Fees	−198.8	−195.0
Estimated Amount to be Recovered through 10 CFR part 171 Fees	557.9	595.2
10 CFR part 171 Billing Adjustments:		
Unpaid Current Year Invoices (estimated)	2.0	3.7
Less Payments Received in Current Year for Previous Year Invoices (estimated)	−6.0	−3.3
Adjusted 10 CFR part 171 Annual Fee Collections Required	553.9	595.6
Adjusted Amount to be Recovered through 10 CFR parts 170 and 171 Fees	752.7	790.6

FY 2023 Fee Collection—Professional Hourly Rate

The NRC uses a professional hourly rate to assess fees under 10 CFR part 170 for specific services it provides. The professional hourly rate also helps determine flat fees (which are used for the review of certain types of license applications). This rate is applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The NRC's professional hourly rate is derived by adding budgeted resources for (1) mission-direct program salaries and benefits, (2) mission-indirect program support, and (3) agency support (corporate support and the Inspector General (IG)). The NRC then subtracts certain offsetting receipts and divides this total by the mission-direct full-time equivalent (FTE) converted to hours (the mission-direct FTE converted to hours is the product of the mission-direct FTE multiplied by the estimated annual mission-direct FTE productive hours). The only budgeted resources excluded from the professional hourly rate are those for mission-direct contract resources, which are generally billed to licensees separately. The following shows the professional hourly rate calculation:

$$\text{Professional Hourly Rate} = \frac{\text{Budgeted Resources}}{\text{Mission-Direct FTE Converted to Hours}} = \frac{\$777.5 \text{ million}}{1{,}672.2 \times 1{,}551} = \$300$$

For FY 2023, the NRC is increasing the professional hourly rate from $290 to $300. The 3.4 percent increase in the professional hourly rate is primarily due to increase in budgeted resources of approximately $34.1 million. The increase in budgeted resources is primarily due to the 4.6 percent increase in salaries and benefits to support

Federal pay raises for NRC employees. The anticipated decline in the number of mission-direct FTE compared to FY 2022 also contributed to the increase in the professional hourly rate. The professional hourly rate is inversely related to the mission-direct FTE amount; therefore, as the number of mission-direct FTE decrease, the professional hourly rate may increase. The number of mission-direct FTE declined by approximately 24, primarily due to: (1) the closure of the Palisades Nuclear Plant (Palisades); and (2) a reduction in resources for development of the operating reactors licensing action infrastructure for process improvements and special projects.

The FY 2023 estimate for annual mission-direct FTE productive hours is 1,551 hours, which is an increase from 1,510 hours in FY 2022. This estimate, also referred to as the ''Productive Hours Assumption,'' reflects the average number of hours that a mission-direct employee spends on mission-direct work in a given year. This estimate, therefore, excludes hours charged to annual leave, sick leave, holidays, training, and general administrative tasks. Table III shows the professional hourly rate calculation methodology. The FY 2022 amounts are provided for comparison purposes.

TABLE III—PROFESSIONAL HOURLY RATE CALCULATION

[Dollars in millions, except as noted]

	FY 2022 final rule	FY 2023 final rule
Mission-Direct Program Salaries & Benefits	$349.3	$359.2
Mission-Indirect Program Support	115.1	118.8
Agency Support (Corporate Support and the IG)	278.9	299.5
Subtotal	743.3	777.5
Less Offsetting Receipts [1]	0.0	0.0
Total Budgeted Resources Included in Professional Hourly Rate	743.3	777.5
Mission-Direct FTE	1,696.1	1,672.2
Annual Mission-Direct FTE Productive Hours (Whole numbers)	1,510	1,551
Mission-Direct FTE Converted to Hours (Mission-Direct FTE multiplied by Annual Mission-Direct FTE Productive Hours)	2,561,111	2,593,582
Professional Hourly Rate (Total Budgeted Resources Included in Professional Hourly Rate Divided by Mission-Direct FTE Converted to Hours) (Whole Numbers)	290	300

[1] The fees collected by the NRC for Freedom of Information Act (FOIA) services and indemnity fees (financial protection required of all licensees for public liability claims at 10 CFR part 140) are subtracted from the budgeted resources amount when calculating the 10 CFR part 170 professional hourly rate, per the guidance in the Office of Management and Budget Circular A–25, ''User Charges.'' The budgeted resources for FOIA activities are allocated under the product for Information Services within the Corporate Support business line. The budgeted resources for indemnity activities are allocated under the Licensing Actions and Research and Test Reactors products within the Operating Reactors business line.

FY 2023 Fee Collection—Flat Application Fee Changes

The NRC is amending the flat application fees it charges in its schedule of fees in § 170.31 to reflect the revised professional hourly rate of $300. The NRC charges these fees to applicants for materials licenses and other regulatory services, as well as to holders of materials licenses. The NRC calculates these flat fees by multiplying the average professional staff hours needed to process the licensing actions by the professional hourly rate for FY 2023. As part of its calculations, the NRC analyzes the actual hours spent performing licensing actions and estimates the five-year average of professional staff hours that are needed to process licensing actions as part of its biennial review of fees. These actions are required by section 205(a) of the Chief Financial Officers Act of 1990 (31 U.S.C. 902(a)(8)). The NRC performed this review for the FY 2023 fee rule and will perform this review again for the FY 2025 fee rule. The biennial review adjustments and the higher professional hourly rate of $300 is the primary reason for the increase in flat application fees. Additional information can be found in the work papers.

In order to simplify billing, the NRC rounds these flat fees to a minimal degree. Specifically, the NRC rounds these flat fees (up or down) in such a way that ensures both convenience for its stakeholders and minimal effects due to rounding. Accordingly, fees under $1,000 are rounded to the nearest $10, fees between $1,000 and $100,000 are rounded to the nearest $100, and fees greater than $100,000 are rounded to the nearest $1,000.

The flat fees are applicable for certain materials licensing actions (see fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 5.A., 6.A. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31). Applications filed on or after the effective date of the FY 2023 final fee rule will be subject to the revised fees in the final rule. Since international activities are an excluded activity, fees are not assessed for import and export licensing actions under 10 CFR parts 170 and 171.

FY 2023 Fee Collection—Low-Level Waste Surcharge

The NRC is assessing a generic low-level waste (LLW) surcharge of $4.023 million. Disposal of LLW occurs at commercially-operated LLW disposal facilities that are licensed by either the NRC or an Agreement State. Four existing LLW disposal facilities in the United States accept various types of LLW. All are located in Agreement States and, therefore, are regulated by an Agreement State, rather than the NRC. The NRC allocates this surcharge to its licensees based on data available in the U.S. Department of Energy's (DOE) Manifest Information Management System (MIMS). This database contains information on total LLW volumes disposed of by four generator classes: academic, industrial, medical, and utility. The ratio of waste volumes disposed of by these generator classes to total LLW volumes disposed over a period of time is used to estimate the portion of this surcharge that will be allocated to the power reactors, fuel facilities, and the materials users fee classes. The materials users fee class portion is adjusted to account for the

large percentage of materials licensees that are licensed by the Agreement States rather than the NRC.

The LLW surcharge amounts have changed since publication of the proposed fee rule. The DOE updated MIMS with 2023 data; as a result of the update, the LLW surcharge for operating power reactors decreased from $3.556 million to $3.496 million; and the LLW surcharge increased from $0.370 million to $0.418 million for fuel facilities and from $0.097 to $0.109 million for materials users.

Table IV shows the allocation of the LLW surcharge and its allocation across the various fee classes.

TABLE IV—ALLOCATION OF LLW SURCHARGE FY 2023

[Dollars in millions]

Fee classes	LLW surcharge	
	Percent	$
Operating Power Reactors	86.9	3.496
Spent Fuel Storage/Reactor Decommissioning	0.0	0.000
Non-Power Production or Utilization Facilities	0.0	0.000
Fuel Facilities	10.4	0.418
Materials Users	2.7	0.109
Transportation	0.0	0.000
Rare Earth Facilities	0.0	0.000
Uranium Recovery	0.0	0.000
Total	100.0	4.023

FY 2023 Fee Collection—Revised Annual Fees

In accordance with SECY–05–0164, ''Annual Fee Calculation Method,'' the NRC rebaselines its annual fees every year. ''Rebaselining'' entails analyzing the budget in detail and then allocating the FY 2023 budgeted resources to various classes or subclasses of licensees. It also includes updating the number of NRC licensees in its fee calculation methodology. The NRC is revising its annual fees in §§ 171.15 and 171.16 to recover approximately 100 percent of the NRC's FY 2023 enacted budget (less the budget authority for excluded activities and the estimated amount to be recovered through 10 CFR part 170 fees). Table V shows the rebaselined fees for FY 2023 for a sample of licensee categories. The FY 2022 amounts are provided for comparison purposes.

TABLE V—REBASELINED ANNUAL FEES

[Actual dollars]

Class/category of licenses	FY 2022 final annual fee	FY 2023 final annual fee
Operating Power Reactors	5,165,000	5,492,000
+ Spent Fuel Storage/Reactor Decommissioning	227,000	261,000
Total, Combined Fee	5,392,000	5,753,000
Spent Fuel Storage/Reactor Decommissioning	227,000	261,000
Non-Power Production or Utilization Facilities	90,100	96,300
High Enriched Uranium Fuel Facility (Category 1.A.(1)(a))	4,334,000	5,156,000
Low Enriched Uranium Fuel Facility (Category 1.A.(1)(b))	1,469,000	1,747,000
Uranium Enrichment (Category 1.E)	1,888,000	2,247,000
UF_6 Conversion and Deconversion Facility (Category 2.A.(1)	436,000	1,095,000
Basic *In Situ* Recovery Facilities (Category 2.A.(2)(b))	42,000	52,200
Typical Users:		
Radiographers (Category 3O)	29,600	37,900
All Other Specific Byproduct Material Licensees (Category 3P)	9,900	12,300
Medical Other (Category 7C)	17,000	18,000
Device/Product Safety Evaluation—Broad (Category 9A)	18,100	24,100

The work papers that support this final rule show in detail how the NRC allocates the budgeted resources and calculates the fees for each class of licensees.

Paragraphs a. through h. of this section describe the budgeted resources allocated to each class of licensees and the calculations of the rebaselined fees. For more information about detailed fee calculations for each class, please consult the accompanying work papers for this final rule.

a. Operating Power Reactors

The NRC will collect $510.7 million in annual fees from the operating power reactors fee class in FY 2023, as shown in Table VI. The FY 2022 operating power reactors fees are shown for comparison purposes.

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS

[Dollars in millions]

Summary fee calculations	FY 2022 final rule	FY 2023 final rule
Total budgeted resources	$645.4	$665.3
Less estimated 10 CFR part 170 receipts	−165.8	−158.9
Net 10 CFR part 171 resources	479.6	506.4
Allocated generic transportation	0.4	0.5
Allocated LLW surcharge	3.8	3.5
Billing adjustment	−3.4	0.3
Total required annual fee recovery	480.3	510.7
Total operating reactors	93	93
Annual fee per operating reactor	5.165	5.492

In comparison to FY 2022, the FY 2023 annual fee for the operating power reactors fee class is increasing primarily due to the following: (1) an increase in budgeted resources; (2) a decrease in 10 CFR part 170 estimated billings; and (3) an increase in the 10 CFR part 171 billing adjustment. These components are discussed in the following paragraphs.

The budgeted resources for the operating power reactors fee class increased primarily as a result of an increase in the fully-costed FTE rate compared to FY 2022 due to an increase in salaries and benefits. The increase in the fully-costed FTE rate is offset by a reduction in FTEs associated with workload changes, including but not limited to the following: (1) the closure of Palisades; (2) delays to planned new reactor design and licensing applications; (3) a reduction in resources for the development of operating reactors licensing action infrastructure for process improvements and special projects. In addition, there was a reduction in contract support resources for baseline inspections in the reactor safety program, which are now being performed in-house.

The annual fee is increasing due to a reduction in the 10 CFR part 170 estimated billings resulting from: (1) a decrease in hours associated with the closure of Palisades and (2) delays to planned new reactor design and licensing applications, topical reports, and white papers.

The annual fee increase is also affected by these contributing factors: (1) an increase in the10 CFR part 171 billing adjustment (moving from a credit to a surcharge) due to the timing of invoices issued in FY 2022, and (2) an increase in the generic transportation surcharge due to an increase in the overall budgeted resources for certificates of compliance (CoCs) for the operating power reactors fee class.

The fee-recoverable budgeted resources are divided equally among the 93 licensed operating power reactors, including the anticipated assessment of annual fees for Vogtle Electric Generating Plant, Unit 3, and results in an annual fee of $5,492,000 per reactor. Additionally, each licensed operating power reactor will be assessed the FY 2023 spent fuel storage/reactor decommissioning annual fee of $261,000 (see Table VII and the discussion that follows). The combined FY 2023 annual fee for each operating power reactor is $5,753,000.

Section 102(b)(3)(B)(i) of NEIMA established a cap for the annual fees charged to operating reactor licensees; under this provision, the annual fee for an operating reactor licensee, to the maximum extent practicable, shall not exceed the annual fee amount per operating reactor licensee established in the FY 2015 final fee rule (80 FR 37432; June 30, 2015), adjusted for inflation. The NRC included an estimate of the operating power reactors fee class annual fee in Appendix C, ''Estimated Operating Power Reactors Annual Fee,'' of the FY 2023 Congressional Budget Justification (CBJ) (NUREG–1100, Volume 38) to increase transparency for stakeholders. The NRC developed this estimate based on the staff's allocation of the FY 2023 CBJ to fee classes under 10 CFR part 170, and allocations within the operating power reactors fee class under 10 CFR part 171. The fee estimate included in the FY 2023 CBJ assumed 94 operating power reactors in FY 2023 and applied various data assumptions from the FY 2021 final fee rule. Based on these allocations and assumptions, the operating power reactors annual fee included in the FY 2023 CBJ was estimated to be $5.2 million, approximately $0.5 million below the FY 2015 operating power reactors annual fee amount adjusted for inflation of $5.7 million. The assumptions made between budget formulation and the development of this final rule have changed, including the change in the number of operating power reactors from 94 to 93. Nonetheless, the FY 2023 annual fee of $5,492,000 remains below the FY 2015 operating power reactors annual fee amount, as adjusted for inflation.

In FY 2016, the NRC amended its licensing, inspection, and annual fee regulations to establish a variable annual fee structure for light-water small modular reactors (SMRs) (81 FR 32617; May 24, 2016). Under the variable annual fee structure, an SMR annual fee would be assessed as a function of its bundled licensed thermal power rating. Currently, there are no operating SMRs; therefore, the NRC will not assess an annual fee in FY 2023 for this type of licensee.

b. Spent Fuel Storage/Reactor Decommissioning

The NRC will collect $32.1 million in annual fees from 10 CFR part 50 and 10 CFR part 52 power reactor licensees, and from 10 CFR part 72 licensees that do not hold a 10 CFR part 50 license or a 10 CFR part 52 combined license, to recover the budgeted resources for the spent fuel storage/reactor decommissioning fee class in FY 2023, as shown in Table VII. The FY 2022 spent fuel storage/reactor decommissioning fees are shown for comparison purposes.

TABLE VII—ANNUAL FEE SUMMARY CALCULATIONS FOR SPENT FUEL STORAGE/REACTOR DECOMMISSIONING

[Dollars in millions]

Summary fee calculations	FY 2022 final rule	FY 2023 final rule
Total budgeted resources	$40.4	$42.9
Less estimated 10 CFR part 170 receipts	−13.8	−12.4
Net 10 CFR part 171 resources	26.6	30.5
Allocated generic transportation costs	1.3	1.6
Billing adjustments	−0.2	0.0
Total required annual fee recovery	27.7	32.1
Total spent fuel storage facilities	122	123
Annual fee per facility	0.227	0.261

In comparison to FY 2022, the FY 2023 annual fee for the spent fuel storage/reactor decommissioning fee class is increasing primarily due to the following: (1) an increase in the budgeted resources and (2) a decrease in the 10 CFR part 170 estimated billings. These components are discussed in the following paragraphs.

The budgeted resources for the spent fuel storage/reactor decommissioning fee class increased primarily due to the following: (1) an increase in the fully-costed FTE rate compared to FY 2022 due to an increase in salaries and benefits; (2) an increase in licensing and oversight activities for one additional power reactor in decommissioning; and (3) an increased number of power reactors transitioning to accelerated decommissioning schedule status. This increase in the budgeted resources is offset by a decline in contract support due to the completion of research activities related to accident tolerant fuel (ATF), the assessment of gross ruptures in high burnup fuel, and standardized computer analysis for licensing evaluation code verification and validation.

The 10 CFR part 170 estimated billings for the spent fuel storage/reactor decommissioning fee class decreased primarily due to the following: (1) a reduction in hours and contract support associated with the staff's review of applications for renewals, amendments, exemptions, and inspections for independent spent fuel storage installation (ISFSI) licenses and dry cask storage CoCs; (2) the completion of the safety and environmental review of the Holtec HI–STORE consolidated interim storage facility application; (3) the completion of the staff's review of the Interim Storage Partners consolidated interim storage facility application and issuance of the license; (4) the completion of decommissioning transition activities for the Duane Arnold Energy Center and the site entering a period of dormancy; (5) the termination of the licenses for La Crosse Boiling Water Reactor and Humboldt Bay Nuclear Power Plant; and (6) the decrease in decommissioning licensing and inspection activities at multiple sites.

The annual fee increase is also affected by an increase in the generic transportation surcharge due to an increase in the generic transportation budgeted resources.

The required annual fee recovery amount is divided equally among 123 licensees, resulting in a FY 2023 annual fee of $261,000 per licensee.

c. Fuel Facilities

The NRC will collect $19.7 million in annual fees from the fuel facilities fee class in FY 2023, as shown in Table VIII. The FY 2023 fuel facilities fees are shown for comparison purposes.

TABLE VIII—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2022 final rule	FY 2023 final rule
Total budgeted resources	$22.4	$26.6
Less estimated 10 CFR part 170 receipts	−8.0	−9.2
Net 10 CFR part 171 resources	14.4	17.4
Allocated generic transportation	1.7	1.9
Allocated LLW surcharge	0.4	0.4
Billing adjustments	−0.1	0.0
Total remaining required annual fee recovery	16.4	19.7

In comparison to FY 2022, the FY 2023 annual fee for the fuel facilities fee class is increasing primarily due to the increase in budgeted resources. This increase is offset by an increase in 10 CFR part 170 estimated billings as discussed in the following paragraphs.

The budgeted resources for the fuel facilities fee class increased primarily as a result of an increase in the fully-costed FTE rate compared to FY 2022 due to an increase in salaries and benefits. In addition, the budgeted resources increased to support the following: (1) licensing actions related to enrichment and manufacturing of high-assay low-enrichment uranium fuel, advanced reactor fuel, and ATF; (2) the staff's review of a new fuel facility application; (3) cyber security activities; (4) restart activities for the Honeywell

International, Inc. Uranium Conversion Facility and the Centrus American Centrifuge Plant; (5) an anticipated increase in material control and accounting inspections at Category II facilities; and (6) fuel facilities rulemaking activities.

The 10 CFR part 170 estimated billings increased as a result of the following: (1) the staff's review of the Nuclear Fuel Services U-metal amendment and an inspection that was delayed due to the COVID–19 pandemic; (2) the staff's review of the TRISO–X, LLC, fuel fabrication facility application; and (3) the staff's review of the Global Nuclear Fuel Americas, LLC, amendment for an increase in enrichment and inspection activities.

The NRC will continue allocating annual fees to individual fuel facility licensees based on the effort/fee determination matrix developed in the FY 1999 final fee rule (64 FR 31448; June 10, 1999). To briefly recap, the matrix groups licensees within this fee class into various fee categories. The matrix lists processes that are conducted at licensed sites and assigns effort factors for the safety and safeguards activities associated with each process (these effort levels are reflected in Table IX). The annual fees are then distributed across the fee class based on the regulatory effort assigned by the matrix. The effort factors in the matrix represent regulatory effort that is not recovered through 10 CFR part 170 fees (*e.g.,* rulemaking, guidance). Regulatory effort for activities that are subject to 10 CFR part 170 fees, such as the number of inspections, is not applicable to the effort factor.

In the FY 2023 final rule, the safeguards factor in the effort factors matrix for the uranium hexaflouride (UF_6) conversion and deconversion fee category for UF_6/liquid process have been increased from 0 (no effort) to 5 (moderate effort), and the conversion powder process has reduced from 10 (high effort) to 1 (low effort). Currently, there is one uranium conversion facility that had been in a ready-idle status for several years with no processing operations during this time; however, this facility is now in the process of returning to full operations.

In the proposed rule, the NRC proposed an effort factor of 0 for safeguards and 5 for safety for the liquid UF_6 process for the one uranium conversion facility. At the time when the effort factors were developed for the proposed rule, Security Order EA–02–025 was temporarily relaxed while the facility was in a ready-idle status. Subsequently, in October 2022, the NRC withdrew the temporary relaxation of Security Order EA–02–025 at the site. As a result of reinstating Security Order EA–02–025 at the site, the NRC reevaluated the proposed effort factor for safeguards and determined that it should be changed from 0 to 5 to reflect a moderate level of effort for the liquid UF_6 process. The effort factor of 5 for safety in the proposed rule continues to be appropriate, resulting in a combined effort factor for the liquid UF_6 process of 10.

In the proposed rule, the NRC also proposed changes to the safety effort factor for the conversion powder process, a separate process under the matrix that is assigned its own effort factors. Specifically, the proposed rule proposed an effort factor of 10 for safety for the conversion powder process at the one uranium conversion facility that is in the process of returning to full operations. The proposed level of effort was based on the facility returning to full operations, which would involve increased amounts of uranium powder for processing at the site and an increased effort to support the restart to full operations. The NRC reevaluated the proposed effort factor based on additional information available from the pre-operational inspections conducted at the site and evaluations of regulated activities during the restart phase. Utilizing actual data instead of estimates, the reevaluation concluded that the overall NRC level of effort would be moderate during the initial restart phase, would be minimal for the remainder of the restart phase, and would be minimal once operations resumed. Therefore, the NRC level of effort for the year results in a revised effort factor of 1 for safety for the conversion powder process.

In summary, for FY 2023, the liquid UF_6 effort factors are revised to Safety-5 and Safeguards-5, and conversion powder effort factors are revised to Safety-1 and Safeguards-0. These changes, along with adding the effort factors for the other processes in the matrix that remain unchanged, results in a total effort factor of 19 for the UF_6 Conversion and Deconversion fee category. The revised total effort factor results in a decrease in the annual fees for the UF_6 Conversion and Deconversion fee category by 16.4 percent compared to the proposed rule. The decrease in annual fees for the UF_6 Conversion and Deconversion fee category results in a corresponding average increase of approximately 1.2 percent in all other fee categories in the fee class. Additional information can be found in the work papers.

TABLE IX—EFFORT FACTORS FOR FUEL FACILITIES, FY 2023

Facility type (fee category)	Number of facilities	Effort factors	
		Safety	Safeguards
High-Enriched Uranium Fuel (1.A.(1)(a))	2	88	91
Low-Enriched Uranium Fuel (1.A.(1)(b))	3	70	21
Limited Operations (1.A.(2)(a))	1	3	11
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	0	0	0
Hot Cell (and others) (1.A.(2)(c))	0	0	0
Uranium Enrichment (1.E.)	1	16	23
UF_6 Conversion and Deconversion (2.A.(1))	1	12	7

In FY 2023, the total remaining amount of the annual fees to be recovered, $19.7 million, is attributable to safety activities, safeguards activities, and the LLW surcharge. For FY 2023, the total budgeted resources to be recovered as annual fees for safety activities are approximately $10.7 million. To calculate the annual fee, the NRC allocates this amount to each fee category based on its percentage of the total regulatory effort for safety activities. Similarly, the NRC allocates the budgeted resources to be recovered as annual fees for safeguards activities, $8.6 million, to each fee category based on its percentage of the total regulatory effort for safeguards activities. Finally, the fuel facilities fee class portion of the LLW surcharge—$0.4 million—is allocated to each fee category based on its percentage of the total regulatory effort for both safety and safeguards activities. The annual fee per licensee is

then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category. The annual fee for each facility is summarized in Table X.

TABLE X—ANNUAL FEES FOR FUEL FACILITIES

[Actual dollars]

Facility type (fee category)	FY 2022 final annual fee	FY 2023 final annual fee
High-Enriched Uranium Fuel (1.A.(1)(a))	$4,334,000	$5,156,000
Low-Enriched Uranium Fuel (1.A.(1)(b))	1,469,000	1,747,000
Facilities with limited operations (1.A.(2)(a))	968,000	807,000
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	N/A	N/A
Hot Cell (and others) (1.A.(2)(c))	N/A	N/A
Uranium Enrichment (1.E.)	1,888,000	2,247,000
UF_6 Conversion and Deconversion (2.A.(1))	436,000	1,095,000

d. Uranium Recovery Facilities

The NRC will collect $0.2 million in annual fees from the uranium recovery facilities fee class in FY 2023, as shown in Table XI. The FY 2022 uranium recovery facilities fees are shown for comparison purposes.

TABLE XI—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2022 final rule	FY 2023 final rule
Total budgeted resources	$0.9	$0.5
Less estimated 10 CFR part 170 receipts	−0.6	−0.3
Net 10 CFR part 171 resources	0.3	0.2
Allocated generic transportation	N/A	N/A
Billing adjustments	0.0	0.0
Total required annual fee recovery	$0.3	$0.2

In comparison to FY 2022, the FY 2023 annual fee for the non-DOE licensee in the uranium recovery facilities fee class is increasing as a result of the decrease in 10 CFR part 170 estimated billings due to the following: (1) the completion of the NRC staff's National Environmental Review Act and National Historic Preservation Act review of Crow Butte Resources, Inc.'s 2014 license renewal; and (2) the completion of the staff's review of Powertech (USA) Inc.'s license amendment for the indirect change of control.

The NRC regulates DOE's Title I and Title II activities under the Uranium Mill Tailings Radiation Control Act (UMTRCA).[2] The annual fee assessed to DOE includes the resources specifically budgeted for the NRC's UMTRCA Title I and Title II activities, as well as 10 percent of the remaining budgeted resources for this fee class. The NRC described the overall methodology for determining fees for UMTRCA in the FY 2002 fee rule (67 FR 42625; June 24, 2002), and the NRC continues to use this methodology. The DOE's UMTRCA annual fee is decreasing compared to FY 2022 primarily due to a decrease in budgeted resources needed to conduct generic work that staff will be performing to resolve issues associated with the transfer of NRC and Agreement State uranium mill tailings sites to DOE for long-term surveillance and maintenance. In addition, 10 CFR part 170 estimated billings are declining due to the anticipated workload decreases at various DOE UMTRCA sites. The NRC assesses the remaining 90 percent of its budgeted resources to the remaining licensee in this fee class, as described in the work papers, which is reflected in Table XII.

TABLE XII—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FACILITIES FEE CLASS

[Actual dollars]

Summary of costs	FY 2022 final annual fee	FY 2023 final annual fee
DOE Annual Fee Amount (UMTRCA Title I and Title II) General Licenses:		
UMTRCA Title I and Title II budgeted resources less 10 CFR part 170 receipts	$206,441	$142,181
10 percent of generic/other uranium recovery budgeted resources	4,665	5,798

[2] Congress established the two programs, Title I and Title II, under UMTRCA to protect the public and the environment from hazards associated with uranium milling. The UMTRCA Title I program is for remedial action at abandoned mill tailings sites where tailings resulted largely from production of uranium for weapons programs. The NRC also regulates DOE's UMTRCA Title II program, which is directed toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

TABLE XII—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FACILITIES FEE CLASS—Continued

[Actual dollars]

Summary of costs	FY 2022 final annual fee	FY 2023 final annual fee
10 percent of uranium recovery fee-relief adjustment	N/A	N/A
Total Annual Fee Amount for DOE (rounded)	211,000	148,000
Annual Fee Amount for Other Uranium Recovery Licenses:		
90 percent of generic/other uranium recovery budgeted resources less the amounts specifically budgeted for UMTRCA Title I and Title II activities	41,986	52,185
90 percent of uranium recovery fee-relief adjustment	N/A	N/A
Total Annual Fee Amount for Other Uranium Recovery Licensees	41,986	52,185

Further, for any non-DOE licensees, the NRC will continue using a matrix to determine the effort levels associated with conducting generic regulatory actions for the different licensees in the uranium recovery facilities fee class; this is similar to the NRC's approach for fuel facilities, described previously. The matrix methodology for uranium recovery licensees first identifies the licensee categories included within this fee class (excluding DOE). These categories are conventional uranium mills and heap leach facilities, uranium *in situ* recovery (ISR) and resin ISR facilities, and mill tailings disposal facilities. The matrix identifies the types of operating activities that support and benefit these licensees, along with each activity's relative weight. Please see the work papers for more detail. Currently, there is only one remaining non-DOE licensee, which is a basic ISR facility. Table XIII displays the benefit factors for the non-DOE licensee in that fee category.

TABLE XIII—BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES

Fee category	Number of licensees	Benefit factor per licensee	Total value	Benefit factor percent total
Conventional and Heap Leach mills (2.A.(2)(a))	0			0
Basic *In Situ* Recovery facilities (2.A.(2)(b))	1	190	190	100
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	0			0
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	0			0
Total	1	190	190	100

The FY 2023 annual fee for the remaining non-DOE licensee is calculated by allocating 100 percent of the budgeted resources, as summarized in Table XIV.

TABLE XIV—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES

[Other than DOE]

[Actual dollars]

Facility type (fee category)	FY 2022 final annual fee	FY 2023 final annual fee
Conventional and Heap Leach mills (2.A.(2)(a))	N/A	N/A
Basic *In Situ* Recovery facilities (2.A.(2)(b))	$42,000	$52,200
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	N/A	N/A
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	N/A	N/A

e. Non-Power Production or Utilization Facilities

The NRC will collect $0.289 million in annual fees from the non-power production or utilization facilities fee class in FY 2023, as shown in Table XV. The FY 2022 non-power production or utilization facilities fees are shown for comparison purposes.

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR NON-POWER PRODUCTION OR UTILIZATION FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2022 final rule	FY 2023 final rule
Total budgeted resources	$6.072	$5.115
Less estimated 10 CFR part 170 receipts	−5.804	−4.869

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR NON-POWER PRODUCTION OR UTILIZATION FACILITIES—Continued

[Dollars in millions]

Summary fee calculations	FY 2022 final rule	FY 2023 final rule
Net 10 CFR part 171 resources	0.268	0.246
Allocated generic transportation	0.035	0.040
Billing adjustments	−0.032	0.003
Total required annual fee recovery	0.270	0.289
Total non-power production or utilization facilities licenses	3	3
Total annual fee per license (rounded)	0.0901	0.0963

In comparison to FY 2022, the FY 2023 annual fee for the non-power production or utilization facilities fee class is increasing, as discussed in the following paragraphs.

In FY 2023, while the budgeted resources decreased primarily due to the completion of the staff's review of the SHINE Medical technologies, LLC's (SHINE) operating license application, this decrease in the budgeted resources is offset by an increase in the fully-costed FTE rate compared to FY 2022 due to an increase in salaries and benefits.

The 10 CFR part 170 estimated billings associated with operating non-power production or utilization facilities licensees subject to annual fees are declining slightly due to less hours needed for activities associated with the special team inspection and the staff's review of a complex license amendment associated with the restart of the NIST Neutron Reactor. The 10 CFR part 170 estimated billings with respect to the medical isotope production facilities and advanced research and test reactors are remaining steady when compared with FY 2022. While the staff completed its review of the operating license application for SHINE, the decrease in estimated billings related to review of the SHINE application are offset by the staff's review of the Kairos Power's, LLC, application for a permit to construct the Hermes test reactor; and pre-application meetings due to the anticipated submission of several license applications.

Furthermore, the annual fee is increasing as a result of an increase in the 10 CFR part 171 billing adjustment (moving from a credit to a surcharge) due to the timing of invoices issued in FY 2022.

The annual fee-recovery amount is divided equally among the three non-power production or utilization facilities licensees subject to annual fees and results in an FY 2023 annual fee of $96,300 for each licensee.

f. Rare Earth

In FY 2023, the NRC has allocated approximately $0.3 million in budgeted resources to this fee class; however, because all the budgeted resources will be recovered through service fees assessed under 10 CFR part 170, the NRC will not assess and collect annual fees in FY 2023 for this fee class.

g. Materials Users

The NRC will collect $39.7 million in annual fees from materials users licensed under 10 CFR parts 30, 40, and 70 in FY 2023, as shown in Table XVI. The FY 2022 materials users fees are shown for comparison purposes.

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

Summary fee calculations	FY 2022 final rule	FY 2023 final rule
Total budgeted resources for licensees not regulated by Agreement States	$34.1	$38.7
Less estimated 10 CFR part 170 receipts	−0.9	−1.2
Net 10 CFR part 171 resources	33.2	37.5
Allocated generic transportation	1.7	2.0
LLW surcharge	0.1	0.1
Billing adjustments	−0.2	0.0
Total required annual fee recovery	34.8	39.7

The formula for calculating 10 CFR part 171 annual fees for the various categories of materials users is described in detail in the work papers. Generally, the calculation results in a single annual fee that includes 10 CFR part 170 costs, such as amendments, renewals, inspections, and other licensing actions specific to individual fee categories.

The total annual fee recovery of $39.7 million for FY 2023 shown in Table XVI consists of $30.3 million for general costs, $9.3 million for inspection costs, and $0.1 million for LLW costs. To equitably and fairly allocate the $39.7 million required to be collected among approximately 2,400 diverse materials users licensees, the NRC continues to calculate the annual fees for each fee category within this class based on the 10 CFR part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the materials license, this approach is the methodology for allocating the generic and other regulatory costs to the diverse fee categories. This fee calculation method also considers the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

In comparison to FY 2022, the FY 2023 annual fees are increasing for 55

fee categories within the materials users fee class primarily as a result of an increase in the budgeted resources for: (1) application of a new decision-making tool to calculate resources for direct inspection work and support activities; (2) associated materials users rulemaking activities; and (3) an increase in the fully-costed FTE rate compared to FY 2022 due to an increase in salaries and benefits. In addition, annual fees are increasing for the materials users fee class generally due to the following: (1) the biennial review of licensing and inspection activities, which affects the distribution of fees across categories based on the relative level of staff effort; (2) an increase in generic transportation costs for materials users; and (3) a slight decrease in the number of materials users licensees from FY 2022.

A constant multiplier is established to recover the total general costs (including allocated generic transportation costs) of $30.3 million. To derive the constant multiplier, the general cost amount is divided by the sum of all fee categories (application fee plus the inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in a constant multiplier of 1.10 for FY 2023. The average inspection cost is the average inspection hours for each fee category multiplied by the professional hourly rate of $300. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is established in order to recover the $9.3 million in inspection costs. To derive the inspection multiplier, the inspection costs amount is divided by the sum of all fee categories (inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in an inspection multiplier of 1.74 for FY 2023. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. Please see the work papers for more detail about this classification.

The annual fee being assessed to each licensee also takes into account a share of approximately $0.1 million in LLW surcharge costs allocated to the materials users fee class (see Table IV, ''Allocation of LLW Surcharge, FY 2023,'' in Section III, ''Discussion,'' of this document). The annual fee for each fee category is shown in the revision to § 171.16(d).

h. Transportation

The NRC will collect $1.7 million in annual fees to recover generic transportation budgeted resources in FY 2023, as shown in Table XVII. The FY 2022 fees are shown for comparison purposes.

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION

[Dollars in millions]

Summary fee calculations	FY 2022 final rule	FY 2023 final rule
Total budgeted resources	$10.2	$11.1
Less estimated 10 CFR part 170 receipts	−3.4	−3.4
Net 10 CFR part 171 resources	6.8	7.7
Less generic transportation resources	−5.3	−6.0
Billing adjustments	0.0	0.0
Total required annual fee recovery	1.5	1.7

In comparison to FY 2022, the FY 2023 annual fee for the transportation fee class is increasing primarily due to an increase in the budgeted resources that is partially offset by generic transportation resources allocated to other fee classes.

In FY 2023, the budgeted resources increased primarily due to: (1) an increase in the fully-costed FTE rate compared to FY 2022 due to an increase in salaries and benefits; (2) maintenance for the storage and transportation information management system; and (3) environmental and licensing reviews of transportation packages for ATF, other advanced reactors fuels, and micro-reactors. This increase is offset by a decrease in budgeted resources associated with rulemaking activities. The increase in the annual fee is offset by an increase in generic transportation resources allocated to respective other fee classes due to a rise in the number of CoCs.

Furthermore, the net result of changes in 10 CFR part 170 estimated billings result in no change compared to FY 2022. Compared to FY 2022, an increase in 10 CFR part 170 estimated billings related to the review of new and amended transportation packages are offset by a decrease in 10 CFR part 170 estimated billings due to delays or the completion of transportation amendment packages.

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC recovers generic transportation costs unrelated to DOE by including those costs in the annual fees for licensee fee classes. The NRC continues to assess a separate annual fee under § 171.16, fee category 18.A., for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered.

This resource distribution to the license fee classes and DOE is shown in Table XVIII. Note that for the non-power production or utilization facilities fee class, the NRC allocates the distribution to only those licensees that are subject to annual fees. Although five CoCs benefit the entire non-power production or utilization facilities fee class, only three out of 30 operating non-power production or utilization facilities licensees are subject to annual fees. Consequently, the number of CoCs used to determine the proportion of generic transportation resources allocated to annual fees for the non-power production or utilization facilities fee class has been adjusted to 0.5 so these licensees are charged a fair and equitable portion of the total fees. For additional detail see the work papers.

TABLE XVIII—DISTRIBUTION OF TRANSPORTATION RESOURCES, FY 2023

[Dollars in millions]

Licensee fee class/DOE	Number of CoCs benefiting fee class or DOE	Percentage of total CoCs	Allocated generic transportation resources
Materials Users	24.0	25.7	$2.0
Operating Power Reactors	6.0	6.4	0.5
Spent Fuel Storage/Reactor Decommissioning	19.0	20.3	1.6
Non-Power Production or Utilization Facilities	0.5	0.5	0.0
Fuel Facilities	23.0	24.6	1.9
Sub-Total of Generic Transportation Resources	72.5	77.5	6.0
DOE	21.0	22.5	1.7
Total	93.5	100.0	7.8

The NRC assesses an annual fee to DOE based on the 10 CFR part 71 CoCs it holds. The NRC, therefore, does not allocate these DOE-related resources to other licensees' annual fees because these resources specifically support DOE.

FY 2023—Policy Changes

The NRC made one policy change for FY 2023.

Expand § 171.15 to be technology-inclusive and create an additional minimum fee and variable rate.

The NRC is amending § 171.15, ''Annual fees: Non-power production or utilization licenses, reactor licenses, and independent spent fuel storage licenses,'' to (1) expand the applicability of the small modular reactor (SMR) variable fee structure to include non-light water reactor (non-LWR) SMRs, and (2) establish an additional minimum fee and variable rate applicable to SMRs with a licensed thermal power rating of less than or equal to 250 megawatts-thermal (MWt). The NRC is making these changes to be technology inclusive and establish a fair and equitable approach for assessing annual fees to these SMRs. In addition, there is the potential for a reduced regulatory effort (and cost) for the smallest proposed SMRs since these types of facilities are considerably smaller in size than the current fleet of operating power reactors, and the level of oversight could be comparable to facilities in the non-power production or utilization facilities fee class. This revision retains the bundled unit concept for SMRs and the approach for calculating fees for reactors, or bundled units, with licensed thermal power ratings greater than 250 MWt. For the purpose of calculating NRC fees, an SMR is defined in §§ 170.3 and 171.5, ''Definitions,'' as a power reactor with a licensed thermal power rating of 1,000 MWt or less. The rating is based on an electrical power generating capacity of 300 megawatts-electric or less per module. This definition currently applies only to light-water reactors (LWRs). The final rule provides for a non-LWR SMR's annual fee to be calculated the same as for a LWR SMR, as a function of its licensed thermal power rating. In addition to the amendments to § 171.15, the NRC is also making conforming changes to the relevant definitions in §§ 170.3 and 171.5.

In 2016, the NRC published the final rule, ''Variable Annual Fee Structure for Small Modular Reactors'' (SMR rule) (81 FR 32617; May 24, 2016). The SMR rule provisions in § 171.15 were the direct result of a multi-year agencywide effort with extensive stakeholder engagement. The goal of the effort was to address NRC staff and industry concerns that there may be inequities if SMR licensees were charged the same annual fee as the current fleet of operating power reactors, which have much larger thermal power levels and electrical generating capacity. The SMR rule was limited to LWR SMRs but left open the possibility of future inclusion of non-LWR SMRs. The NRC stated in the final rule that, ''[T]he light-water SMR designs that have been discussed with the NRC in pre-application discussions to date are similar to the current U.S. operating fleet of reactors in terms of physical configuration, operational characteristics, and applicability to the NRC's existing regulatory framework. The NRC may consider the inclusion of non-light water SMRs in a future rulemaking once the agency has increased understanding of these factors with respect to non-light water designs'' (81 FR 32617; May 24, 2016).

After issuing the SMR rule, the NRC continued to engage with industry, other Federal agencies, the international community, and other interested stakeholders to develop a knowledge base and understanding of the characteristics and proposed designs of non-LWR SMRs. The NRC conducted public meetings with stakeholders to share information and discuss topics related to the development and licensing of non-LWRs and participated in preapplication activities with several applicants. During these public meetings, the NRC staff discussed possible approaches to assessing annual fees for non-LWR SMRs. Stakeholders recommended that the NRC consider lower fees for non-LWR SMRs and requested the NRC proceed with rulemaking expeditiously. In developing an approach to assess annual fees to future non-LWR SMRs, the NRC considered stakeholder input from these public meetings and analyzed a position paper from the Nuclear Energy Institute (NEI), ''NEI Input on NRC Annual Fee Assessment for Non-Light Water Reactors.''

The NRC is in the process of conducting pre-application reviews for several LWR and non-LWR commercial SMR designs, but no applications for SMRs have been submitted for operating licenses under 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities,'' or combined licenses under 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.'' Under the current regulatory framework, it will be several years before a new SMR is ready, if approved, to begin commercial operation and be subject to annual fees pursuant to 10 CFR part 171. However, industry representatives and stakeholders have requested prompt NRC action to establish an annual fee policy for non-LWR SMRs, including micro-reactors, in order to inform business decisions and to provide regulatory predictability.

Commercial power reactors that are less than or equal to 20 MWt are considerably smaller in size than the current fleet of operating power reactors; the NRC anticipates that the level of oversight could be comparable

to facilities in the non-power production or utilization facilities fee class. In addition, non-LWR SMRs that are less than 20 MWt may not require resident inspectors, similar to the non-power production or utilization facilities fee class oversight program.

As a result of this multi-year effort, the NRC is amending § 171.15 to be technology inclusive by expanding applicability to non-LWR SMRs. Additionally, the NRC is changing the minimum fees and the variable annual fee scale for SMRs that have a licensed thermal power rating of less than or equal to 250 MWt in order to fairly and equitably assess annual fees for those SMRs.

The new minimum fee will be equal to the lowest annual fee that is assessed to the non-power production or utilization facility fee class and will be the only annual fee assessed for an SMR, or for bundled units, with a combined licensed thermal power rating per site that is less than or equal to 20 MWt. This change also creates a new variable annual fee for an SMR or for bundled units with a combined licensed thermal power rating per site greater than 20 MWt but less than or equal to 250 MWt that will be added to the minimum fee (the non-power production or utilization facilities fee class annual fee). This approach provides for a gradual increase in the annual fee as the licensed thermal power rating increases. The minimum fee currently included in § 171.15, which is equal to the average of the spent fuel storage/reactor decommissioning and non-power production or utilization facilities fee classes annual fees, is retained as a component of the annual fee with an added variable fee assessed for an SMR, or for bundled units, with a combined licensed thermal power rating per site greater than 250 MWt but less than or equal to 2,000 MWt.

Three different variable fees will be assessed: (1) a new variable fee assessed for power reactors with a licensed thermal power rating greater than 20 MWt but less than or equal to 250 MWt; (2) the existing variable fee assessed for power reactors with a licensed thermal power rating greater than 250 MWt but less than or equal to 2,000 MWt; and (3) for bundled units added above 4,500 MWt, the maximum fee (equal to the annual fee for the operating power reactor fee class) plus a variable fee will be assessed for the incremental licensed thermal power rating greater than 4,500 MWt up to 6,500 MWt (another 2,000 MWt range), which constitutes an additional bundled unit. This pattern for assessed fees will continue as licensed thermal power rating capacity is added. The new variable fee provides for a gradual increase in fees for power reactors above 20 MWt but less than equal to 250 MWt rather than an abrupt increase to the higher minimum fee once an increment above 20 MWt is reached.

Without these changes to § 171.15, a non-LWR SMR, regardless of size, would be required to pay the same annual fee as the operating power reactors fee class under the NRC's current annual fee structure. NEIMA requires that 10 CFR part 171 annual fees be assessed in a fair and equitable manner and, to the maximum extent practicable, be reasonably related to the cost of providing regulatory services. NEIMA also provides that annual fees may be based on the allocation of resources of the Commission among licensees or certificate holders or classes of licensees or certificate holders. The differences between SMRs and the existing operating power reactor fleet will result in significant differences in the anticipated regulatory cost, thus applying the current fee structure to non-LWR SMRs could be inconsistent with NEIMA requirements that the NRC's fees be fairly and equitably allocated among its licensees.

The NRC finds this policy change to be reasonable, fair, and equitable. Pursuant to § 171.15, annual fees for power reactors licensed under 10 CFR part 50, or a combined license under 10 CFR part 52, including an SMR licensee, will not commence until the licensee has notified the NRC in writing of the successful completion of power ascension testing. The NRC does not expect to license a non-LWR SMR facility for operation that would be assessed annual fees under 10 CFR part 171 for several years. However, the NRC made this policy change, well before operation, to promote regulatory consistency and transparency, as well as to provide potential non-LWR SMR applicants, the industry, and the public with notice and opportunity to comment on the methodology that will be used to calculate 10 CFR part 171 annual fees for future licensed facilities. Furthermore, the NRC's view is that this policy change addresses potential inconsistencies in the current 10 CFR part 171 annual fee structure for future non-LWR SMRs. This policy change will assist industry in planning and budgeting for future annual fees and will continue to provide a clear method for allocating NRC generic expenses to its operating power reactor licensees.

Because the annual regulatory cost associated with LWR and non-LWR SMRs is inherently uncertain before such a licensed facility is operational, the NRC intends to reevaluate the variable annual fee structure at the appropriate time to ensure consistency with NEIMA. This re-evaluation will occur once SMR facilities become operational and sufficient regulatory cost data becomes available. Operational experience data should provide insights that will identify the correlation between design features and the level of NRC oversight typically needed for these new types of power plants as well as inform whether further annual fee adjustments for SMRs may be needed. As cost data and operating experience for LWR and non-LWR SMRs are accumulated, the NRC will propose adjustments to fees as needed to make sure that the fees assessed to LWR and non-LWR SMRs (and to all operating power reactors) are commensurate with the regulatory support services provided by the NRC, consistent with NEIMA.

FY 2023—Administrative Changes

The NRC is making three administrative changes in FY 2023:

1. Amend Table 1 in § 170.31 and Table 2 in § 171.16 to add Program Code 21131 to fee category 1(A)(2)(c).

On February 1, 2022, staff in the Office of Nuclear Material Safety and Safeguards added Program Code 21131, ''Medical Isotopes Production Facility Licensed Under 10 part 70,'' to fee category 1(A)(2)(c). This program code was created in preparation for future license applications that the NRC anticipates will be submitted for medical isotopes production facilities under 10 CFR part 70, ''Domestic Licensing of Special Nuclear Material.'' The NRC is amending Table 1 in § 170.31, ''Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses,'' and Table 2 in § 171.16, ''Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC,'' to add Program Code 21131 to fee category 1(A)(2)(c), as the program code is used as the basis for assessing 10 CFR part 170 service fees at full cost and a future annual fee under 10 CFR part 171.

2. Amend § 170.12(f), ''Method of payment,'' by clarifying the types of payments and payment method.

The NRC is amending § 170.12(f), ''Method of payment,'' to add new payment method options (Amazon Pay and PayPal) now available via *www.Pay.gov.* The NRC is also removing the requirement for payment of invoices

of $5,000 or more be made via the Automated Clearing House (ACH) through the NRC's Lockbox Bank. The NRC encourages applicants and licensees to use the electronic payment options for fee submittal.

3. Change Small Entity Fees.

In developing this final rule, the NRC has conducted a biennial review of small entity fees to determine whether the NRC should change those fees. The NRC used the fee methodology developed in FY 2009 to perform this biennial review (74 FR 27641; June 10, 2009). Based on this methodology and as a result of the biennial review, the NRC is increasing the upper tier small entity fee from $4,900 to $5,200, which constitutes an increase of approximately 6 percent. The lower tier small entity fee is not increasing and will remain at $1,000. The NRC believes these fees are reasonable and provide relief to small entities, while at the same time recovering from those licensees some of the NRC's costs for activities that benefit them.

III. Public Comment Analysis

Overview of Public Comments

The NRC published a proposed rule on March 3, 2023 (88 FR 13357) and requested public comment on its proposed revisions to 10 CFR parts 170 and 171. By the close of the comment period, the NRC received seven written comment submissions on the FY 2023 proposed rule. In general, commenters were supportive of the specific proposed regulatory changes, although most commenters expressed concerns about broader fee policy issues related to the overall size of the NRC's budget, fairness of fees, transparency, and budget formulation.

The commenters are listed in Table XIX.

TABLE XIX—FY 2023 PROPOSED FEE RULE COMMENTER SUBMISSIONS

Commenter	Affiliation	ADAMS accession No.
Timothy J. Tate	Framatome	ML23093A114
Brian Hunt	Honeywell International—Metropolis Works (MTW)	ML23093A123
Dr. Jennifer L. Uhle	Nuclear Energy Institute (NEI)	ML23093A188
Richard J. Freudenberger	BWX Technologies, Inc. (BWXT)	ML23093A189
David M. Gullott	Constellation Energy Generation, LLC (CEG)	ML23093A187
Paul A. Kerl	U.S. Department of Energy (DOE)	ML23100A189
Timothy A. Knowles	Nuclear Fuel Services, Inc. (NFS)	ML23109A190

Information about obtaining the complete text of the comment submissions is available in the ''Availability of Documents,'' section of this document.

IV. Public Comments and NRC Responses

The NRC has carefully considered the public comments received on the proposed rule. The comments have been organized into six topics. Comments from multiple commenters raising similar specific concerns were combined to capture the common essential issues raised by the commenters. Comments from a single commenter have been quoted to ensure accuracy; brackets within those comments are used to show changes that have been made to the quoted comments.

A. Fuel Facilities Fee Class Budget and Increase in the Annual Fees

Comment: Several commenters expressed concerns about the average 18.5% annual fee increase for all operating fuel cycle facilities, except for the approximate 203% increase proposed for the uranium conversion plant, which is expected to restart operations later this year. The commenters stated that the fuel facilities business line budget and annual fees decreased each of the prior four fiscal years (FY 2019–FY 2022) to more accurately reflect the reduced number of operating facilities and the corresponding reduction in workload. The commenters expressed concern that despite the number of operating facilities remaining steady, the proposed annual fee increase is not based on quantitative workload data or effort factors and does not reflect the relatively low risk profile of the existing and predicted fuel cycle facility fleet. The commenters expressed concern that the basis for the increase in the annual fee is not adequate or clear. The commenters also expressed concern regarding the increase in the budget for licensing and oversight activities and the disparity between lower 10 CFR part 170 (service fees) relative to 10 CFR part 171 (annual fees). (Framatome, BWXT, NEI, and NFS)

Response: The NRC is aware and remains mindful of the impact of its budget on the fees for the fuel facilities fee class. When formulating the budget, the NRC takes into consideration various factors, including workload forecasting, historical data and trends in the business line, information from licensees and potential applicants, and uncertainty of projections. The NRC assesses the current environment and performs workload forecasting, which includes looking for significant drivers that could impact future workload. These include, but are not limited to, technical and regulatory developments that have the potential to generate additional work or reduce work (*i.e.,* pre-application activities and applications for new fuel facilities, potential major amendments and license termination requests, rulemaking activities, guidance development, and oversight of the fuel facilities program).

In addition, the NRC evaluates historical data and trends to measure how execution in previous years lines up with the budget assumptions at the time. The NRC uses that data to inform the future budget and identify areas where the assumptions previously used may have changed. Historical data allows the NRC to identify trending in quantity and/or complexity of the planned submittals, and to incorporate efficiencies gained and lessons learned from previous data.

The NRC also relies on communication from stakeholders to identify accurate dates for planned submittals (*i.e.,* major amendment requests, renewals, and new fuel facility applications), including letters of intent provided by licensees and applicants, and collecting information from project managers. For large licensing projects, the NRC tries to balance the appropriate resource needs against the relative certainty that an application will be submitted on schedule.

While the NRC understands the commenters' concerns regarding the impact of budget on the existing fuel facilities licensees, NEIMA requires the NRC to recover, to the maximum extent practicable, approximately 100 percent

of its annual budget authority, less the budget authority for excluded activities, and to do so through a combination of both user fees and annual fees. This requirement means that fact-of-life changes in the 10 CFR part 170 estimated collections for budgeted workloads (due to circumstances like delayed or cancelled licensing submittals) may increase the amount to be recovered through 10 CFR part 171 annual fees.

As expressed by the commenters, from FY 2019 through FY 2022 the annual fee for fuel facilities fee class had decreased each year and, after a significant decrease in the budgeted resources for the fee class from FY 2019 to FY 2020, budgeted resources had remained relatively flat from FY 2020 to FY 2022. The decrease in the fuel facilities budgeted resources over this period appropriately aligned resources with the projected workload for the fuel facilities fee class at the time. In FY 2023, the fuel facilities fee class budget did increase from FY 2022 by $4.2 million, which includes an increase of 5.3 FTE and approximately $0.5 million in contract support, for licensing, oversight, and rulemaking activities. The FY 2023 fuel facilities fee class budgeted resources of $26.6 million, which includes 52.5 FTE and approximately $2.2 million in contract support, is $3.4 million or approximately 11.3 percent less than the FY 2019 fuel facilities budgeted resources of $30.0 million, which included 66.7 FTE and approximately $2.0 million in contract support.

The FY 2023 CBJ, published in April 2022, explains that the increase in budgeted resources for the fuel facilities business line supports activities such as licensing actions related to the enrichment and manufacturing of high-assay low-enriched uranium fuel, advanced reactor fuel, and ATF, cybersecurity rulemaking for fuel cycle facilities, and an increase in the fully-costed FTE rate due to an increase in salaries and benefits to support Federal pay raises for NRC employees. Additionally, changing workload drivers, including shift in licensing action schedules, and the implementation of information security standards have impacted the FY 2023 budget for the fuel facilities business line.

Although the NRC is aware of the impact of its budgeted resources on the fees for fuel facilities licensees subject to 10 CFR part 171 annual fees, the fee class budget is not linearly proportional to the number of licensees in the fuel facilities fee class. Resources are required to develop and maintain the infrastructure independent of the number of operational fuel facilities. The fuel facilities business line must maintain certain minimum requirements in order to meet the NRC's regulatory and statutory oversight role. This includes maintaining expertise in a number of technical areas, including integrated safety analysis, radiation protection, criticality safety, chemical safety, fire safety, emergency management, environmental protection, decommissioning, management measures, material control and accounting, physical protection, and information security. Budgeted resources in technical areas are recovered through 10 CFR part 170 user fees as well as 10 CFR part 171 annual fees. Additionally, the infrastructure costs include indirect services and the business line portion of corporate support. Indirect services include rulemaking, maintaining guidance for licensees, maintaining procedures for NRC staff, training, and travel. Corporate support includes, but is not limited to, the cost for information management and technology, security, facilities management, rent, utilities, human resources, financial management, and acquisitions.

Consistent with NEIMA, when developing the annual fee rule, the NRC accounted for changes that occurred in the two-year interval between the development of the FY 2023 budget request, which began in FY 2021, and the enactment of the FY 2023 appropriation in December 2022. As part of developing the annual fee rule, the NRC estimates the amount of 10 CFR part 170 service fees by each fee class by analyzing billing data and the actual cost of work under NRC contracts that was charged to licensees and applicants for the previous four quarters. The estimate, therefore, reflects any recent changes in the NRC's regulatory activities. The FY 2023 proposed rule utilized four quarters of the prior year invoice data, while the NRC is using a combination of two quarters of the prior year and two quarters of the current year billing data (which is also updated to reflect workload changes) for the FY 2023 final rule. In the FY 2023 proposed fee rule, the 10 CFR part 170 estimated service fees for the fuel facilities fee class increased from $8.0 million in FY 2022 to $9.0 million as shown in the FY 2023 proposed fee rule, which is an increase of $1.0 million or 12.5 percent compared to FY 2022. As described in the FY 2023 proposed fee rule, the 10 CFR part 170 estimated billings increased as a result of the following: (1) the staff's review of the Westinghouse Electric Company, LLC's license renewal application for the Columbia Fuel Fabrication Facility, which was completed in September 2022; (2) the staff's review of the Nuclear Fuel Services U-metal amendment and an inspection that was delayed due to the COVID–19 pandemic; (3) Louisiana Energy Services' transition of the Authority to Operate from DOE to the NRC; and (4) upgrades to NIST–800–53. The increase in 10 CFR part 170 estimated billings was offset by a delay in the submission of X–Energy's environmental review for the TRISO–X facility.

The NRC continues to actively evaluate resource requirements to address changes that occur between budget formulation and execution. The NRC will continue to assess resource requirements, evaluate programmatic efficiencies, and make changes as appropriate.

No changes were made to this final rule as a result of these comments.

Comment: Several commenters expressed concerns that they have finalized their calendar year budgets and funding an 18.5 percent increase in the FY 2023 annual fees is not currently budgeted and can only be fulfilled by making difficult resource decisions while maintaining operational safety and security. (Framatome, BWXT, and NEI)

Response: NEIMA requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of its annual budget authority, less the budget authority for excluded activities, through fees by the end of the fiscal year. The NRC must set its fees in accordance with its appropriated budget authority. Furthermore, the annual appropriation cycle places additional constraints upon the NRC. Even though the NRC does not know the amount of fees it will need to collect until after it receives an annual appropriation from Congress, the NRC starts the process of developing the fee rule in the preceding summer to allow for timely final billing prior to the end of the fiscal year, consistent with the requirements of NEIMA. This practice ensures that NRC fees assessed bear a reasonable relationship to the cost of NRC services.

Furthermore, the NRC must comply with additional statutory requirements, including the Administrative Procedures Act (APA). Section 553 of the APA requires the NRC to give the public an opportunity to comment on a published proposed rule. Moreover, because OMB has found the fee rule to be a major rule under the Congressional Review Act, the effective date of the final rule cannot be less than 60 days

from the date of publication and must allow for timely final billing prior to the end of the fiscal year. The NRC, therefore, cannot republish the FY 2023 proposed fee rule to provide advance notification of all changes within the final rule and meet its statutory requirements.

The NRC recognizes that the issuance of the fee rule may not coincide with budget cycles of industry; however, the NRC must promulgate a notice-and-comment rule based on the most accurate data available regarding the cost of NRC services in the context of the NRC's budget for a given fiscal year.

No changes were made to this final rule as a result of these comments.

B. Fuel Facilities Matrix

Comment: ''Since 2018, the Metropolis facility [MTW] has been secured in an idle state due to market conditions. The NRC was notified of the decision to restart the plant on February 15, 2021. The start date of the production of UF6 was estimated to occur by the end of March of 2023. The current schedule indicates the earliest date to produce UF6 will be in April 2023. MTW will only produce UF6 for 2 quarters in FY 2023. A review of the effort factors based on the start-up of the plant was completed. The effort factor for the Conversion Powder was increased from 0 to 10 with the Liquid UF6 effort factor going from 0 to 5. MTW agrees that the effort factor for the liquid state UF6 is correct based on previous years of plant operation. MTW does not agree with the Conversion Powder effort factor going from 0 to 10. Additionally, the Conversion Powder effort factor for the Fuel Fabricators is only listed as 5. This has a much higher safety significance than the MTW Source Material (Natural U3O8). During the previous 5 years of operation, prior to the ready idle period, the effort factor for Conversion Powder at MTW was assigned a value of 1. To reflect the same level of effort that was used during previous years of plant operation, MTW asks that the effort factor for the Conversion Powder be revised from 10 to 1, and the FY 2023 part 171 annual fee be recalculated using the lower effort factor.'' (Honeywell)

Response: Prior to issuing the final rule, the NRC conducted additional verification and validation of the data inputs and calculations on the fuel facilities effort factors matrix. As a result of this review, the NRC determined that the effort factors for Honeywell should be revised because of the reinstatement of Security Order EA–02–025 and a reevaluation of the level of effort associated with conversion powder during restart and operations.

In the proposed rule, the NRC proposed an effort factor of 0 for safeguards and 5 for safety for liquid UF_6 for Honeywell. When the effort factors were developed for the proposed rule, Security Order EA–02–025 was temporarily relaxed while Honeywell was in ready-idle status. Subsequently, in October 2022, the NRC reinstated Security Order EA–02–025 at the site. As a result of reinstating Security Order EA–02–025 at the site, the NRC reevaluated the proposed effort factor for safeguards and determined that it should be changed from 0 to 5 to reflect a moderate level of effort. The effort factor for safety for liquid UF_6 for Honeywell remains 5.

In the proposed rule, the NRC also proposed changes to the safety effort factor for the conversion powder process, a separate process under the matrix that is assigned its own effort factors. Specifically, the proposed rule proposed an effort factor of 10 for safety for conversion powder at Honeywell. The proposed level of effort was based on Honeywell returning to full operations, which would involve increased amounts of uranium powder for processing at the site and increased effort to support the restart. The NRC reevaluated the proposed effort factor based on the additional information available from pre-operational inspections conducted at the site and evaluations of regulated activities during the restart phase. Utilizing actual data instead of estimates, the re-evaluation concluded that the overall NRC level of effort during the initial restart phase would be moderate, would be minimal for the remainder of the restart phase, and would be minimal once operations were resumed. Therefore, the NRC level of effort revised the effort factor to 1 for safety for conversion powder.

In summary, for FY 2023, the liquid UF_6 effort factors are revised to safety–5 and safeguards–5, and conversion powder effort factors are revised to safety–1 and safeguards–0. These changes, along with adding the effort factors for the other processes in the matrix that remain unchanged, results in a total effort factor of 19 for the UF_6 Conversion and Deconversion fee category. The revised total effort factor results in a decrease in the annual fees for the UF_6 Conversion and Deconversion fee category by 16.4 percent compared to the proposed rule. The decrease in annual fees for the UF_6 Conversion and Deconversion fee category results in a corresponding average increase of approximately 1.2 percent in all other fee categories in the fee class. The NRC provides a significant amount of information in the work papers that details the inputs and calculations used to develop the fees for each fee category. Specific information fee calculations for fuel facilities can be found in Table VIII—Annual Fee Summary Calculation for Fuel Facilities.

C. Operating Power Reactors Fee Class Budget and Declining 10 CFR Part 170 Estimated Billings

Comment: Several commenters expressed concerns that the NRC's operating power reactors fee class budget is too large and that there is a growing disparity between 10 CFR part 170 and 10 CFR part 171. The commenters expressed the view that over the past five years, the 10 CFR part 170 service fee collections have decreased by 39 percent, while the budget for operating reactors has decreased by less than 1 percent. As a result, a greater percentage of the budget is required to be recovered through annual fees and, as such, this points to a need to revalue the NRC's budget and fee collection model. (NEI and CEG)

Response: The NRC is aware and remains mindful of the impact of its budget on the fees for operating power reactors licensees. The operating power reactors fee class supports the activities of the operating reactors and new reactors business lines, including both direct-billable licensing actions and those general activities that indirectly support the agency's mission in these areas. The NRC's FY 2023 CBJ provided the agency's explanation and justification for the resources being requested to allow the agency to complete its mission, and the reason for the changes in the budget request for the NRC compared to the prior year.

When formulating the budget, the NRC takes into consideration various factors, including workload forecasting, historical data and trends in the business line, information from licensees and potential applicants, and uncertainty of projections. The NRC assesses the current environment and performs workload forecasting, which includes looking for significant drivers that could impact the future workload. These include, but are not limited to, technical and regulatory developments that have the potential to generate additional work or reduce work (*i.e.,* rulemaking, a guidance change that could drive new submittals, or known plant closures that will reduce the overall size of the program). In addition, the NRC reviews historical data and trends to measure how execution in previous years lines up with the budget

assumptions at the time. The NRC uses that data to inform the future budget and identify areas where the assumptions previously used may have changed. The NRC also relies on communications from stakeholders to identify plant submittals, including letters of intent, collecting information from project managers, considering responses to the periodic regulatory issue summaries, and the level of pre-application activities. In budgeting for large licensing projects, the NRC tries to balance the anticipated resource needs against the relative certainty that an application will be submitted on schedule.

In FY 2023, the operating power reactors fee class is $665.3 million, which includes approximately 1,245 FTE and $86.6 million in contract support. This represents an increase from FY 2022 of $19.9 million, which includes a decrease of approximately 41 FTE primarily in licensing and oversight activities. Compared to FY 2017, the FY 2023 operating power reactors fee class budget decreased by $5.0 million, or approximately 0.7 percent less than the FY 2017 operating power reactors budgeted resources of $670.3 million, which included approximately 1,532 FTE and $66.0 million in contract support. The $19.9 million increase in the operating power reactors fee class budget is primarily due to increases in the fully-costed FTE rate from an increase in salaries and benefits. The increase in the annual fee is partially offset by a decline in FTEs associated with changes in workload, including but not limited to the following: (1) the closure of Palisades; (2) delays to planned new reactor design and licensing applications; and (3) a reduction in resources for the development of operating reactors licensing action infrastructure for process improvements and special projects.

Since FY 2017, service fees directly billed to operating power reactors under 10 CFR part 170 have decreased from $256.3 million in FY 2017 to $158.9 million as shown in the FY 2023 final fee rule, which represents a decline of $97.4 million, or approximately 38 percent. During the same period, the operating power reactors fleet has declined from 99 to 93.

Further, while the NRC understands the commenters' concerns regarding the budget for the existing operating power reactor licensees, NEIMA requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of its annual budget authority, less the budget authority for excluded activities. This requirement means that fact-of-life changes in the 10 CFR part 170 estimated collections for budgeted workloads (due to circumstances like delayed or cancelled licensing applications) may increase the amount to be recovered through 10 CFR part 171 annual fees. NEIMA also caps the per-licensee annual fee for operating reactors, to the maximum extent practicable, at the FY 2015 annual fee amount as adjusted for inflation.

Although the NRC is mindful of the impact of its budgeted resources on the fees for operating power reactors licensees subject to 10 CFR part 171 annual fees, the fee class budget is not linearly proportional to the number of licensees in the operating power reactors fee class. Resources are required to develop and maintain the infrastructure independent of the number of operational power reactors. The operating and new reactors business lines must maintain certain minimum requirements in order to meet the NRC's regulatory and statutory oversight role. This includes maintaining expertise by developing and implementing licensing, oversight, incident response programs, and rulemaking for reactors. Budgeted resources in technical areas are recovered through 10 CFR part 170 user fees as well as 10 CFR part 171 annual fees. Additionally, the infrastructure costs include indirect services and the business line portion of corporate support. Indirect services include rulemaking, maintaining guidance for licensees, maintaining procedures for NRC staff, training, and travel. Corporate support includes, but is not limited to, the cost for information management and technology, security, facilities management, rent, utilities, human resources, financial management, and acquisitions.

Consistent with NEIMA, when developing the annual fee rule, the NRC took into account changes that occurred in the two-year interval between the development of the FY 2023 budget request, which began in FY 2021, and the enactment of the FY 2023 appropriation in December 2022. As part of the development of the annual fee rule, the NRC estimates the amount of 10 CFR part 170 service fees by each fee class by analyzing billing data and the actual cost of work under NRC contracts that was charged to licensees and applicants for the previous four quarters. The estimate, therefore, reflects any recent changes in the NRC's regulatory activities. The FY 2023 proposed rule utilized four quarters of the prior year invoice data, while the NRC is using a combination of two quarters of the prior year and two quarters of the current year billing data (which is also updated to reflect workload changes) for the FY 2023 final rule. In the FY 2023 proposed fee rule, the 10 CFR part 170 estimated service fees for the operating power fee class decreased from $165.8 million in FY 2022 to $160.2 million as shown in the FY 2023 proposed fee rule, which is a decrease of $5.6 million or 3.4 percent compared to FY 2022. As described in the FY 2023 proposed fee rule, the 10 CFR part 170 estimated billings decreased as a result of the following: (1) a decrease in hours associated with the closure of Palisades and (2) delays to planned new reactor design and licensing applications, topical reports, and white papers.

With the cap on annual fees for the operating power reactors fee class, the NRC continues to evaluate resource requirements and adjustments to address changes that occur between budget formulation and execution. The NRC will continue to assess resource requirements, evaluate programmatic efficiencies, and make changes as appropriate.

No changes were made to this final rule as a result of these comments.

D. Non-Power Production or Utilization Facilities Fee Class

Comment: ''The FY2023 proposed fee rule outlines a 9.8% increase in annual fees for non-power production or utilization facilities (NPUFs). Historically, and justifiably, the annual fee for NPUFs has remained relatively stable, with fluctuations of around 1%. However, that stable trend was drastically reversed in FY22 when NPUF's received a 12.6% increase in annual fees (which was the largest increase among all fee classes for that fiscal year). NRC justified this increase primarily by the fact that the number of NPUF licensees subject to fees went from 4 to 3. We assumed the hike of FY2022 would allow for a stabilization in FY2023. Yet, for FY2023, the NRC is proposing another 9.8% annual fee increase, for which the basis is not clear. The NRC's statement in the FRN describes the NPUF increase due to the following: 'Furthermore, the proposed annual fee is increasing as a result of an increase in the 10 CFR part 171 billing adjustment (moving from a credit to a surcharge) due to the timing of invoices issued in FY 2022.' 'Timing of invoices' as the sole justification for a 9.8% increase seems inadequate. In addition, we urge the NRC to consider the unique role of these facilities, and how fee increases have a direct impact upon resources available for research and development. This role is outlined

under the Atomic Energy Act, section 104(c), and 10 CFR 50.41(b), which directs the Commission to regulate and license class 104(c) licensees in a manner that 'will permit the conduct of widespread and diverse research and development.' '' (NEI)

Response: While the timing of invoices was the main contributor to the increase in the FY 2023 fee for the NPUF fee class, it was not the sole justification provided for the increase. As discussed in the FY 2023 proposed fee rule, the NPUF budgetary resources decreased primarily due to the expected completion of the staff's review of the SHINE operating license application. The decrease in the budgeted resources was offset by an increase in the fully-costed FTE rate compared to FY 2022 due to an increase in salaries and benefits. Each fee class was impacted by the increase in the fully-costed FTE rate due to the increase in salaries and benefits. In addition, the 10 CFR part 170 estimated billings associated with operating NPUF licensees subject to annual fees are declining slightly due to less hours needed for activities associated with the special team inspection and the staff's review of a complex license amendment associated with the restart of the NIST Neutron Reactor. The 10 CFR part 170 estimated billings with respect to the medical isotope production facilities and advanced research and test reactors are remaining steady when compared with FY 2022 due to the following: (1) the staff's construction and operational readiness inspection activities for SHINE; (2) the staff's review of the Kairos Power's, LLC application for a permit to construct a test reactor; and (3) pre-application meetings due to the anticipated submission of several license applications. Finally, as the commenter noted, an additional reason for the proposed annual fee is increasing is the 10 CFR part 171 billing adjustment (moving from a credit to a surcharge) due to the timing of invoices issued in FY 2022.

In a March 21, 2023, FY 2023 proposed fee rule public meeting, the NRC discussed the NPUF fee class over a five-year period and reasons for the change in the proposed annual fee. Further, the NRC discussed the billing adjustment, which was the main contributing factor for the increase in the NPUF proposed annual fee. Billing adjustments are a combination of invoices issued in a prior fiscal year and paid in the current fiscal year offset by estimated invoices that are issued in the current year and paid in a future year. This amount can fluctuate from year to year based on many different variables including timing of when the final annual fee invoices are issued due to the effective date of the fee rule and deferral of debt including payment plans. The ADAMS accession number for the slides is provided in the ''Availability of Documents'' section of this document.

Finally, the commenter asserts that the NRC should consider how fee increases have a direct impact upon resources available for research and development as described under the Atomic Energy Act, section 104(c), and 10 CFR 50.41(b). The NRC is mindful of the impact of its budgeted resources on the fees for facilities involved in research and development, and only requests from Congress those resources necessary to complete its mission. In FY 2023, the budgetary resources for the NPUF fee class were necessary to address emerging work needs and maintaining adequate oversight of the existing fleet of facilities. NEIMA requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of the total budget authority appropriated for the fiscal year, less the budget authority for excluded activities.

No change was made to this final rule in response to this comment.

E. Use of Fee-Based Carryover To Reduce Fees

Comment: Several commenters suggested that the NRC should use its available discretionary authority to apply fee-based carryover funds for the purpose of reducing licensee fees. The commenters suggested that the NRC apply carryover funds in the FY 2023 fee rule for the purpose of reducing fees and that carryover should be applied from one year to the next to alleviate costs. (NEI and CEG)

Response: Under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of the total budget authority appropriated for the fiscal year, less the budget authority for excluded activities. The NRC's discretionary use of carryover does not reduce the amount of current-year budget authority appropriated to the NRC.

No changes were made to this final rule as a result of these comments.

F. Transparency

Comment: ''Most licensees must estimate and budget their NRC fees well in advance of the proposed fee rule and typically use recent NRC fee history in making their estimates. The lack of directed carryover to offset current fiscal year funding is a significant departure from this recent fee history and is the cause of budget challenges for licensees. We strongly encourage the NRC to re-examine the remaining available carryover and use whatever discretion exists to reallocate this carryover to offset current year funding needs, consistent with past NRC budgets. Further, we also strongly encourage the NRC to use any means available to notify licensees of any substantial changes made during the crafting of the final rule, *e.g.,* the use of carryover and the number of operating power reactors assumed. This would allow licensees additional time needed to realign their own budgets.'' (NEI)

Response: The NRC strives to ensure that the proposed fee rule is as accurate as possible and explains its assumptions about the budgetary resources and the number of operating power reactors to provide the best information available regarding the fiscal year's proposed fees. The NRC discussed these assumptions during the March 21, 2023, public meeting on the FY 2023 proposed fee rule.

Under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of the total budget authority appropriated for the fiscal year, less the budget authority for excluded activities. The NRC's discretionary use of carryover does not reduce the amount of current-year budget authority appropriated to the NRC.

Furthermore, the NRC must comply with additional statutory requirements, including the APA. Section 553 of the APA requires the NRC to give the public an opportunity to comment on a published proposed rule. Moreover, because OMB has found the fee rule to be a major rule under the Congressional Review Act, the effective date of the final rule cannot be less than 60 days from the date of publication and must allow for timely final billing prior to the end of the fiscal year. The NRC, therefore, cannot republish the FY 2023 proposed fee rule to provide advance notification of all changes within the final rule and meet its statutory requirements.

No changes were made to this final rule in response to these comments.

V. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[3] the NRC has prepared a regulatory flexibility analysis related to this final rule. The regulatory flexibility analysis is available as indicated in the

[4] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, Title II, 110 Stat. 847 (1996).

''Availability of Documents'' section of this document.

VI. Regulatory Analysis

Under NEIMA, the NRC is required to recover, to the maximum extent practicable, approximately 100 percent of its annual budget for FY 2023 less the budget authority for excluded activities. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978 and established additional fee methodology guidelines for 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees without changing the underlying principles of its fee policy to ensure that the NRC continues to comply with the statutory requirements for cost recovery.

In this final rule, the NRC continues this longstanding approach. Therefore, the NRC did not identify any alternatives to the current fee structure guidelines and did not prepare a regulatory analysis for this final rule.

VII. Backfitting and Issue Finality

The NRC has determined that the backfit and issue finality provisions, §§ 50.109, ''Backfitting''; 52.39, ''Finality of early site permit determinations''; 52.63, ''Finality of standard design certifications''; 52.83, ''Finality of referenced NRC approvals; partial initial decision on site suitability''; 52.98, ''Finality of combined licenses; information requests''; 52.145, ''Finality of standard design approvals; information requests''; 52.171, ''Finality of manufacturing licenses; information requests''; and 70.76, ''Backfitting,'' do not apply to this final rule and that a backfit analysis is not required because these amendments do not require the modification of, or addition to, (1) systems, structures, components, or the design of a facility; (2) the design approval or manufacturing license for a facility; or (3) the procedures or organization required to design, construct, or operate a facility.

VIII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC wrote this document to be consistent with the Plain Writing Act, as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885).

IX. National Environmental Policy Act

The NRC has determined that this final rule is the type of action described in § 51.22(c)(1). Therefore, neither an environmental impact statement nor environmental assessment has been prepared for this final rule.

X. Paperwork Reduction Act

This final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). Existing collections of information were approved by OMB, approval number 3150–0190.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

XI. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act of 1996 (5 U.S.C. 801–808). The Office of Management and Budget has found it to be a major rule as defined in the Congressional Review Act.

XII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is amending the licensing, inspection, and annual fees charged to its licensees and applicants, as necessary, to recover, to the maximum extent practicable, approximately 100 percent of its annual budget for FY 2023 less the budget authority for excluded activities, as required by NEIMA. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XIII. Availability of Guidance

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, prepared the ''Small Entity Compliance Guide'' for the FY 2023 fee rule. The compliance guide was developed when the NRC completed the small entity biennial review. This compliance guide is available as indicated in the ''Availability of Documents'' section of this document.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Documents	ADAMS acccession No./FR citation/web link
FY 2023 Final Rule Work Papers	ML23136A575.
OMB Circular A–25, ''User Charges''	*https://www.whitehouse.gov/wp-content/uploads/2017/11/Circular-025.pdf.*
SECY–05–0164, ''Annual Fee Calculation Method,'' dated September 15, 2005	ML052580332.
''Revision of Fee Schedules; Fee Recovery for Fiscal Year 2015,'' dated June 30, 2015	80 FR 37432.
NUREG–1100, Volume 38, ''Congressional Budget Justification: Fiscal Year 2023'' (April 2022)	ML22089A188.
''Variable Annual Fee Structure for Small Modular Reactors,'' dated May 24, 2016	81 FR 32617.
Revision of Fee Schedules; Fee Recovery for FY 2002,'' dated June 24, 2002	67 FR 42611.
''Revision of Fee Schedules; Fee Recovery for FY 2006,'' dated May 30, 2006	71 FR 30721.
''Revision of Fee Schedules; Fee Recovery for FY 2009,'' dated June 10, 2009	74 FR 27641.
''NEI Input on NRC Annual Fee Assessment for Non-Light Water Reactors,'' dated November 23, 2020.	ML20328A173.
FY 2023 Proposed Fee Rule Public Meeting Slides	ML23076A132.
FY 2023 Regulatory Flexibility Analysis	ML23123A138.
FY 2023 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide	ML22347A247.

List of Subjects

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Approvals, Byproduct material, Holders of certificates, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Registrations, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is amending 10 CFR parts 170 and 171 as follows:

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 1. The authority citation for part 170 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w) (42 U.S.C. 2014, 2201(w)); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 31 U.S.C. 901, 902, 9701; 44 U.S.C. 3504 note.

■ 2. In § 170.3, revise the definition for ''Small modular reactor (SMR)'' to read as follows.

§ 170.3 Definitions.

* * * * *

Small modular reactor (SMR) for the purposes of calculating fees, means the class of power reactors having a licensed thermal power rating less than or equal to 1,000 MWt per module. This rating is based on the thermal power equivalent of an SMR with an electrical power generating capacity of 300 MWe or less per module.

* * * * *

■ 3. In § 170.12, revise paragraph (f) to read as follows.

§ 170.12 Payment of fees.

* * * * *

(f) *Method of payment.* All fee payments under 10 CFR part 170 are to be made payable to the U.S. Nuclear Regulatory Commission. The payments are to be made in U.S. funds by electronic funds transfer, such as ACH (Automated Clearing House) using Electronic Data Interchange (E.D.I.), check, draft, money order, credit card, Amazon Pay, or PayPal (submit electronic payment at *www.Pay.gov* or manual payment using the NRC Form 629, ''Authorization for Payment by Credit Card''). Specific written instructions for making electronic payments and credit card payments may be obtained by contacting the Office of the Chief Financial Officer at 301–415–7554. In accordance with Department of the Treasury requirements, refunds will only be made upon receipt of information on the payee's financial institution and bank accounts.

* * * * *

§ 170.20 [Amended]

■ 4. In § 170.20, remove the dollar amount ''$290'' and add in its place the dollar amount ''$300''.

■ 5. In § 170.31, revise table 1 to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
1. Special nuclear material: [11]	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [6] [Program Code(s): 21213]	Full Cost.
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [6] [Program Code(s): 21210]	Full Cost.
(2) All other special nuclear materials licenses not included in Category 1.A. (1) which are licensed for fuel cycle activities.[6]	
(a) Facilities with limited operations [6] [Program Code(s): 21240, 21310, 21320]	Full Cost.
(b) Gas centrifuge enrichment demonstration facilities [6] [Program Code(s): 21205]	Full Cost.
(c) Others, including hot cell facilities [6] [Program Code(s): 21130, 21131, 21133]	Full Cost.
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [6] [Program Code(s): 23200].	Full Cost.
C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 of this chapter in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers.[4] Application [Program Code(s): 22140].	$1,400.
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A.[4] Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310].	$2,800.
E. Licenses or certificates for construction and operation of a uranium enrichment facility [6] [Program Code(s): 21200]	Full Cost.
F. Licenses for possession and use of special nuclear material greater than critical mass as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel-cycle activities.[4] [6] [Program Code(s): 22155].	Full Cost.
2. Source material: [11]	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal [6] [Program Code(s): 11400].	Full Cost.
(2) Licenses for possession and use of source material in recovery operations such as milling, *in-situ* recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.[6]	
(a) Conventional and Heap Leach facilities [6] [Program Code(s): 11100]	Full Cost.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
(b) Basic *In Situ* Recovery facilities [6] [Program Code(s): 11500]	Full Cost.
(c) Expanded *In Situ* Recovery facilities [6] [Program Code(s): 11510]	Full Cost.
(d) *In Situ* Recovery Resin facilities [6] [Program Code(s): 11550]	Full Cost.
(e) Resin Toll Milling facilities [6] [Program Code(s): 11555]	Full Cost.
(f) Other facilities [6] [Program Code(s): 11700]	Full Cost.
(3) Licenses that authorize the receipt of byproduct material, as defined in section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [6] [Program Code(s): 11600, 12000].	Full Cost.
(4) Licenses that authorize the receipt of byproduct material, as defined in section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [6] [Program Code(s): 12010].	Full Cost.
B. Licenses which authorize the possession, use, and/or installation of source material for shielding. [7] [8] Application [Program Code(s): 11210].	$1,300.
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. Application [Program Code(s): 11240].	$6,400.
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. Application [Program Code(s): 11230, 11231].	$3,000.
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. Application [Program Code(s): 11710].	$2,800.
F. All other source material licenses. Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820]	$2,800.
3. Byproduct material: [11]	
A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. Application [Program Code(s): 03211, 03212, 03213].	$14,000.
(1). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. Application [Program Code(s): 04010, 04012, 04014].	$18,600.
(2). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. Application [Program Code(s): 04011, 04013, 04015].	$23,300.
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. Application [Program Code(s): 03214, 03215, 22135, 22162].	$3,900.
(1). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. Application [Program Code(s): 04110, 04112, 04114, 04116].	$5,200.
(2). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. Application [Program Code(s): 04111, 04113, 04115, 04117].	$6,400.
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 1–5. Application [Program Code(s): 02500, 02511, 02513].	$5,600.
(1). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. Application [Program Code(s): 04210, 04212, 04214].	$7,500.
(2). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: more than 20. Application [Program Code(s): 04211, 04213, 04215].	$9,300.
D. [Reserved]	N/A.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units). Application [Program Code(s): 03510, 03520].	$3,400.
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. Application [Program Code(s): 03511].	$7,000.
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. Application [Program Code(s): 03521].	$66,900.
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. Application [Program Code(s): 03254, 03255, 03257].	$7,200.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. Application [Program Code(s): 03250, 03251, 03253, 03256].	$11,000.
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. Application [Program Code(s): 03240, 03241, 03243].	$2,200.
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. Application [Program Code(s): 03242, 03244].	$1,200.
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613].	$5,900.
(1) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20. Application [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622].	$7,900.
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: more than 20. Application [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623].	$9,800.
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution. Application [Program Code(s): 03620].	$8,900.
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C.[13] Application [Program Code(s): 03219, 03225, 03226]	$9,600.
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 1–5. Application [Program Code(s): 03310, 03320].	$10,900.
(1). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 6–20. Application [Program Code(s): 04310, 04312].	$14,500.
(2). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: more than 20. Application [Program Code(s): 04311, 04313].	$18,200.
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 1–5. Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130].	$7,400.
(1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 6–20. Application [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438].	$9,900.
(2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: more than 20. Application [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439].	$12,300.
Q. Registration of a device(s) generally licensed under part 31 of this chapter. Registration	$500.
R. Possession of items or products containing radium-226 identified in § 31.12 of this chapter which exceed the number of items or limits specified in that section.[5]	
1. Possession of quantities exceeding the number of items or limits in § 31.12(a)(4) or (5) of this chapter but less than or equal to 10 times the number of items or limits specified. Application [Program Code(s): 02700].	$2,800.
2. Possession of quantities exceeding 10 times the number of items or limits specified in § 31.12(a)(4) or (5) of this chapter. Application [Program Code(s): 02710].	$2,700.
S. Licenses for production of accelerator-produced radionuclides. Application [Program Code(s): 03210]	$15,300.
4. Waste disposal and processing: [11]	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. Application [Program Code(s): 03231, 03233, 03236, 06100, 06101].	Full Cost.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03234].	$7,500.
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03232].	$5,400.
5. Well logging: [11]	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. Application [Program Code(s): 03110, 03111, 03112].	$4,900.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2 3]
B. Licenses for possession and use of byproduct material for field flooding tracer studies. Licensing [Program Code(s): 03113].	Full Cost.
6. Nuclear laundries: [11]	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. Application [Program Code(s): 03218].	$23,900.
7. Medical licenses: [11]	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 1–5. Application [Program Code(s): 02300, 02310].	$12,000.
(1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 6–20. Application [Program Code(s): 04510, 04512].	$15,900.
(2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: more than 20. Application [Program Code(s): 04511, 04513].	$19,900.
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 1–5. Application [Program Code(s): 02110].	$9,400.
(1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 6–20. Application [Program Code(s): 04710].	$12,400.
(2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: more than 20. Application [Program Code(s): 04711].	$15,500.
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: 1–5. Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160].	$10,200.
(1). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: 6–20. Application [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826, 04828].	$13,600.
(2). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: more than 20. Application [Program Code(s): 04811, 04813, 04815, 04817, 04819, 04821, 04823, 04825, 04827, 04829].	$17,000.
8. Civil defense: [11]	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. Application [Program Code(s): 03710].	$2,800.
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution. Application—each device.	$21,900.
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices. Application—each device.	$9,700.
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution. Application—each source.	$5,700.
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel. Application—each source.	$1,100.
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	Full Cost.
2. Other Casks	Full Cost.
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators.	
Application	$4,200.
Inspections	Full Cost.
2. Users.	
Application	$4,200.
Inspections	Full Cost.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost.
11. Review of standardized spent fuel facilities	Full Cost.
12. Special projects: Including approvals, pre-application/licensing activities, and inspections. Application [Program Code: 25110].	Full Cost.
13. A. Spent fuel storage cask Certificate of Compliance	Full Cost.
B. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. Decommissioning/Reclamation: [11]	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21325, 22200].	Full Cost.
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed.	Full Cost.
15. Import and Export licenses: [12]	
Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.).	
A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under § 110.40(b) of this chapter. Application—new license, or amendment; or license exemption request.	N/A.
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires the NRC to consult with domestic host state authorities (i.e., Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.). Application—new license, or amendment; or license exemption request.	N/A.
C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances. Application—new license, or amendment; or license exemption request.	N/A.
D. Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances. Application—new license, or amendment; or license exemption request.	N/A.
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities. Minor amendment.	N/A.
Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.).	
Category 1 (Appendix P, 10 CFR part 110) Exports:	
F. Application for export of appendix P Category 1 materials requiring Commission review (e.g., exceptional circumstance review under § 110.42(e)(4) of this chapter) and to obtain one government-to-government consent for this process. For additional consent see fee category 15.I. Application—new license, or amendment; or license exemption request.	N/A.
G. Application for export of appendix P Category 1 materials requiring Executive Branch review and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I. Application—new license, or amendment; or license exemption request.	N/A.
H. Application for export of appendix P Category 1 materials and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I. Application—new license, or amendment; or license exemption request.	N/A.
I. Requests for each additional government-to-government consent in support of an export license application or active export license. Application—new license, or amendment; or license exemption request.	N/A.
Category 2 (Appendix P, 10 CFR part 110) Exports:	
J. Application for export of appendix P Category 2 materials requiring Commission review (e.g., exceptional circumstance review under § 110.42(e)(4) of this chapter). Application—new license, or amendment; or license exemption request.	N/A.
K. Applications for export of appendix P Category 2 materials requiring Executive Branch review. Application—new license, or amendment; or license exemption request.	N/A.
L. Application for the export of Category 2 materials. Application—new license, or amendment; or license exemption request.	N/A.
M. [Reserved]	N/A.
N. [Reserved]	N/A.
O. [Reserved]	N/A.
P. [Reserved]	N/A.
Q. [Reserved]	N/A.
Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):	
R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities. Minor amendment.	N/A.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
16. Reciprocity: Agreement State licensees who conduct activities under the reciprocity provisions of § 150.20 of this chapter. Application.	$3,000.
17. Master materials licenses of broad scope issued to Government agencies. Application [Program Code(s): 03614]	Full Cost.
18. Department of Energy:	
A. Certificates of Compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages).	Full Cost.
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	Full Cost.

[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(1) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(i) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(ii) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(2) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, pre-application consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(3) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(4) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(5) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

[2] Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (*e.g.,* 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

[3] Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended.

[4] Licensees paying fees under categories 1.A., 1.B., and 1.E. are not subject to fees under categories 1.C., 1.D. and 1.F. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

[5] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[6] Licensees subject to fees under fee categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

[7] Licensees paying fees under 3.C., 3.C.1, or 3.C.2 are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[8] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[9] Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

[10] Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2. for broad scope licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

[11] A materials license (or part of a materials license) that transitions to fee category 14.A is assessed full-cost fees under 10 CFR part 170, but is not assessed an annual fee under 10 CFR part 171. If only part of a materials license is transitioned to fee category 14.A, the licensee may be charged annual fees (and any applicable 10 CFR part 170 fees) for other activities authorized under the license that are not in decommissioning status.

[12] Because the resources for import and export licensing activities are identified as a fee-relief activity to be excluded from the fee-recoverable budget, import and export licensing actions will not incur fees.

[13] Licensees paying fees under 4.A., 4.B. or 4.C. are not subject to paying fees under 3.N. licenses that authorize services for other licensees authorized on the same license.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 6. The authority citation for part 171 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 44 U.S.C. 3504 note.

■ 7. In § 171.5, revise the definitions for ''Bundled unit'', ''Minimum fee'', ''Small modular reactor (SMR)'', ''Variable fee'', and ''Variable rate'' to read as follows:

§ 171.5 Definitions.

* * * * *

Bundled unit means multiple SMRs on a single site that are considered a single unit for the purpose of assessing an annual fee. A bundled unit is assessed an annual fee based on the cumulative licensed thermal power rating of all licensed SMRs on the same site. The maximum capacity of a bundled unit is a cumulative licensed thermal power rating of 4,500 MWt. A single SMR can be part of two bundled units if it completes the capacity of one

unit and begins the capacity of an additional unit. For a given site, the use of the bundled unit concept is independent of the number of SMR plants, the number of SMR licenses issued, or the sequencing of the SMR licenses that have been issued. Bundled units with capacities greater than 2,000 MWt and less than or equal to 4,500 MWt are assessed a maximum fee that is equivalent to the annual fee paid by the current reactor fleet. Above 4,500 MWt establishes an additional bundled unit.

* * * * *

Minimum fee means the lowest annual fee assessed for an SMR or a bundled unit in a thermal power rating fee assessment tier.

* * * * *

Small modular reactor (SMR) for the purposes of calculating fees means the class of power reactors having a licensed thermal power rating less than or equal to 1,000 MWt per module. This rating is based on the thermal power equivalent of an SMR with an electrical power generating capacity of 300 MWe or less per module.

* * * * *

Variable fee means an annual fee component that is added to the minimum fee. The variable fee is designed to gradually increase as licensed thermal power capacity is added within the bundled unit fee assessment tier. The variable fee is calculated as the product of the incremental increase in the thermal power rating multiplied by the variable rate.

Variable rate means the factor used to calculate the variable fee component of the annual fee. To determine the total annual fee, the incremental increase in the licensed thermal power rating within the fee assessment tier is multiplied by the variable rate resulting in a variable fee that is added to the minimum fee. There is a different factor for each SMR or bundled unit fee assessment tier. Each factor represents the difference between the lower licensed thermal power rating within each tier and the actual thermal power rating for the unit or site.

■ 8. In § 171.15, revise paragraphs (b)(1), (b)(2) introductory text, (c)(1), (c)(2) introductory text, (d)(2) and (e) to read as follows:

§ 171.15 Annual fees: Non-power production or utilization licenses, reactor licenses, and independent spent fuel storage licenses.

* * * * *

(b)(1) The FY 2023 annual fee for each operating power reactor that must be collected by September 30, 2023, is $5,492,000.

(2) The FY 2023 annual fees are comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee and associated additional charges. The activities comprising the spent fuel storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2023 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2023 annual fee for each power reactor holding a 10 CFR part 50 license or combined license issued under 10 CFR part 52 that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license or a 10 CFR part 52 combined license, is $261,000.

(2) The FY 2023 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section). The activities comprising the FY 2023 spent fuel storage/reactor decommissioning rebaselined annual fee are:

* * * * *

(d) * * *

(2) The annual fees for a small modular reactor(s) located on a single site to be collected by September 30 of each year, are as follows:

TABLE 1 TO PARAGRAPH (d)(2)

Bundled unit thermal power rating	Minimum fee	Variable fee	Maximum fee
First Bundled Unit(s)—cumulative MWt:			
0 MWt ≤ 20 MWt	TBD[a]	N/A	N/A.
>20 MWt ≤ 250 MWt	TBD[a]	TBD[d]	N/A.
>250 MWt ≤ 2,000 MWt	TBD[b]	TBD[e]	N/A.
>2,000 MWt ≤ 4,500 MWt	N/A	N/A	TBD.[c]
Additional Bundled Unit(s)—cumulative MWt (above the first bundled unit of 4,500 MWt):			
0 MWt ≤ 2,000 MWt	N/A	TBD[f]	N/A.
>2,000 MWt ≤ 4,500 MWt	N/A	N/A	TBD.[c]

[a] Annual fee paid by the non-power production or utilization facilities fee class.
[b] Average of the annual fees for the spent fuel storage/reactor decommissioning and the non-power production or utilization facilities fee classes.
[c] Annual fee paid by the operating power reactors fee class.
[d] [((b) − (a))/230] × the difference between 20 MWt for the first bundled unit(s) and the actual cumulative licensed thermal power rating up to 250 MWt.
[e] [((c) − (b))/1,750] × the difference between 250 MWt for the first bundled unit(s) and the actual cumulative licensed thermal power rating up to 2,000 MWt.
[f] [((c) − (b))/2,000] × the difference between 4,500 MWt for the first bundled unit(s) and the total actual cumulative licensed thermal power rating up to 2,000 MWt.

* * * * *

(e) The FY 2023 annual fee for licensees authorized to operate one or more non-power production or utilization facilities under a single 10 CFR part 50 license, unless the reactor is exempted from fees under § 171.11(b), is $96,300.

■ 9. In § 171.16, revise paragraphs (b) introductory text, (c), and (d) to read as follows:

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

* * * * *

(b) The FY 2023 annual fee is comprised of a base annual fee and

associated additional charges. The base FY 2023 annual fee is the sum of budgeted costs for the following activities:

* * * * *

(c) A licensee who is required to pay an annual fee under this section, in addition to 10 CFR part 72 licenses, may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in table 1 to this paragraph (c). Failure to file a small entity certification in a timely manner could result in the receipt of a delinquent invoice requesting the outstanding balance due and/or denial of any refund that might otherwise be due. The small entity fees are as follows:

TABLE 1 TO PARAGRAPH (c)

NRC small entity classification	Maximum annual fee per licensed category
Small Businesses Not Engaged in Manufacturing (Average gross receipts over the last 5 completed fiscal years):	
$555,000 to $8 million	$5,200
Less than $555,000	1,000
Small Not-For-Profit Organizations (Annual Gross Receipts):	
$555,000 to $8 million	5,200
Less than $555,000	1,000
Manufacturing Entities that Have An Average of 500 Employees or Fewer:	
35 to 500 employees	5,200
Fewer than 35 employees	1,000
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 49,999	5,200
Fewer than 20,000	1,000
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer:	
35 to 500 employees	5,200
Fewer than 35 employees	1,000

(d) The FY 2023 annual fees for materials licensees and holders of certificates, registrations, or approvals subject to fees under this section are shown in table 2 to this paragraph (d):

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [15] [Program Code(s): 21213]	$5,156,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [15] [Program Code(s): 21210]	1,747,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations [15] [Program Code(s): 21310, 21320]	807,000
(b) Gas centrifuge enrichment demonstration facility [15] [Program Code(s): 21205]	N/A
(c) Others, including hot cell facility [15] [Program Code(s): 21130, 21131, 21133]	N/A
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [11] [15] [Program Code(s): 23200]	N/A
C. Licenses for possession and use of special nuclear material of less than a critical mass, as defined in § 70.4 of this chapter, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. [Program Code(s): 22140]	2,900
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	8,200
E. Licenses or certificates for the operation of a uranium enrichment facility [15] [Program Code(s): 21200]	2,247,000
F. Licenses for possession and use of special nuclear materials greater than critical mass, as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel cycle activities.[4] [Program Code: 22155]	5,100
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal.[15] [Program Code: 11400]	1,095,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Conventional and Heap Leach facilities.[15] [Program Code(s): 11100]	N/A

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
(b) Basic *In Situ* Recovery facilities.[15] [Program Code(s): 11500]	52,200
(c) Expanded *In Situ* Recovery facilities.[15] [Program Code(s): 11510]	N/A
(d) *In Situ* Recovery Resin facilities.[15] [Program Code(s): 11550]	[5] N/A
(e) Resin Toll Milling facilities.[15] [Program Code(s): 11555]	[5] N/A
(f) Other facilities.[6] [Program Code(s): 11700]	[5] N/A
(3) Licenses that authorize the receipt of byproduct material, as defined in section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4).[15] [Program Code(s): 11600, 12000]	[5] N/A
(4) Licenses that authorize the receipt of byproduct material, as defined in section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [15] [Program Code(s): 12010]	N/A
B. Licenses which authorize the possession, use, and/or installation of source material for shielding.[16, 17] Application [Program Code(s): 11210]	3,100
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. [Program Code: 11240]	11,800
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. [Program Code(s): 11230 and 11231]	6,000
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. [Program Code: 11710]	7,500
F. All other source material licenses. [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820]	10,200
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03211, 03212, 03213]	32,400
(1). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04010, 04012, 04014]	43,000
(2). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04011, 04013, 04015]	53,800
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03214, 03215, 22135, 22162]	11,200
(1). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04110, 04112, 04114, 04116]	14,800
(2). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04111, 04113, 04115, 04117]	18,300
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4) of this chapter. Number of locations of use: 1–5. [Program Code(s): 02500, 02511, 02513]	11,000
(1). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. [Program Code(s): 04210, 04212, 04214]	14,600
(2). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: more than 20. [Program Code(s): 04211, 04213, 04215]	20,000
D. [Reserved]	[5] N/A
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units). [Program Code(s): 03510, 03520]	10,500
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes. [Program Code(s): 03511]	10,400
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes. [Program Code(s): 03521]	87,100

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. [Program Code(s): 03254, 03255, 03257]	10,800
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. [Program Code(s): 03250, 03251, 03253, 03256]	15,800
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. [Program Code(s): 03240, 03241, 03243]	4,200
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. [Program Code(s): 03242, 03244]	3,100
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	15,100
(1) Licenses of broad scope for possession and use of product material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	20,100
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	24,900
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution. [Program Code(s): 03620]	15,500
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C.[21] [Program Code(s): 03219, 03225, 03226]	17,000
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license Number of locations of use: 1–5. [Program Code(s): 03310, 03320]	37,900
(1). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: 6–20. [Program Code(s): 04310, 04312]	50,700
(2). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: more than 20. [Program Code(s): 04311, 04313]	63,300
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 1–5. [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130]	12,300
(1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 6–20. [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438]	16,400
(2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: more than 20. [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439]	20,400
Q. Registration of devices generally licensed under part 31 of this chapter	[13] N/A
R. Possession of items or products containing radium-226 identified in § 31.12 of this chapter which exceed the number of items or limits specified in that section: [14]	
(1). Possession of quantities exceeding the number of items or limits in § 31.12(a)(4), or (5) of this chapter but less than or equal to 10 times the number of items or limits specified [Program Code(s): 02700]	7,200
(2). Possession of quantities exceeding 10 times the number of items or limits specified in § 31.12(a)(4) or (5) of this chapter [Program Code(s): 02710]	7,600
S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210]	29,800
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. [Program Code(s): 03231, 03233, 03236, 06100, 06101]	23,000

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03234]	17,500
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03232]	10,300
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. [Program Code(s): 03110, 03111, 03112]	13,900
B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113]	[5] N/A
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. [Program Code(s): 03218]	32,700
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 1–5. [Program Code(s): 02300, 02310]	32,300
(1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 6–20. [Program Code(s): 04510, 04512]	42,900
(2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: more than 20. [Program Code(s): 04511, 04513]	53,700
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 1–5. [Program Code(s): 02110]	46,500
(1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 6–20. [Program Code(s): 04710]	61,700
(2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: more than 20. [Program Code(s): 04711]	77,100
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [19] Number of locations of use: 1–5. [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	18,000
(1). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [19] Number of locations of use: 6–20. [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826, 04828]	24,000
(2). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [19] Number of locations of use: more than 20. [Program Code(s): 04811, 04813, 04815, 04817, 04819, 04821, 04823, 04825, 04827, 04829]	30,700
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. [Program Code(s): 03710]	7,200
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	24,100
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	10,700

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	6,300
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	1,200
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	[6] N/A
2. Other Casks	[6] N/A
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators	[6] N/A
2. Users	[6] N/A
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	[6] N/A
11. Standardized spent fuel facilities	[6] N/A
12. Special Projects [Program Code(s): 25110]	[6] N/A
13. A. Spent fuel storage cask Certificate of Compliance	[6] N/A
B. General licenses for storage of spent fuel under § 72.210 of this chapter	[12] N/A
14. Decommissioning/Reclamation:	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21325, 22200]	[7] [20] N/A
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed	[7] N/A
15. Import and Export licenses	[8] N/A
16. Reciprocity	[8] N/A
17. Master materials licenses of broad scope issued to Government agencies.[15] [Program Code(s): 03614]	390,000
18. Department of Energy:	
A. Certificates of Compliance	[10] 1,750,000
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities [Program Code(s): 03237, 03238]	148,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1 of the current FY, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (*e.g.,* human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the **Federal Register** for notice and comment.

[4] Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

[5] There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under fee categories 7.A, 7.A.1, 7.A.2, 7.B., 7.B.1, 7.B.2, 7.C, 7.C.1, or 7.C.2.

[10] This includes Certificates of Compliance issued to the DOE that are not funded from the Nuclear Waste Fund.

[11] See § 171.15(c).

[12] See § 171.15(c).

[13] No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

[14] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[15] Licensees subject to fees under categories 1.A., 1.B., 1.E., 2.A., and licensees paying fees under fee category 17 must pay the largest applicable fee and are not subject to additional fees listed in this table.

[16] Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[17] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[18] Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

[19] Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2 for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

[20] No annual fee is charged for a materials license (or part of a materials license) that has transitioned to this fee category because the decommissioning costs will be recovered through 10 CFR part 170 fees, but annual fees may be charged for other activities authorized under the license that are not in decommissioning status.

[21] Licensees paying fees under 4.A., 4.B. or 4.C. are not subject to paying fees under 3.N. licenses that authorize services for other licensees authorized on the same license.

Dated: June 2, 2023.

For the Nuclear Regulatory Commission.

Howard K. Osborne,

Chief Financial Officer.

[FR Doc. 2023–12696 Filed 6–14–23; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No.: FAA–2019–0218; Amdt. No. 25–148]

RIN 2120–AL15

High Elevation Airport Operations

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule amends certain airworthiness regulations applicable to cabin pressurization systems and oxygen dispensing equipment on transport category airplanes, to facilitate certification of those airplanes, systems, and equipment for operation at high elevation airports. This rule eliminates the need for certain equivalent level of safety findings and exemptions.

DATES: Effective July 17, 2023.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see ''How To Obtain Additional Information'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Robert Hettman, Aircraft Systems Section, AIR–623, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 S 216th Street, Des Moines, Washington, 98198; telephone and facsimile 206–231–3171; email *robert.hettman@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, part A, subpart III, section 44701, ''General Requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for the design and performance of aircraft that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority. It prescribes new safety standards for the design and operation of transport category airplanes.

I. Overview of Final Rule

This final rule amends two sections of title 14, Code of Federal Regulations (14 CFR), part 25.

First, the rule amends § 25.841, ''Pressurized cabins,'' for airplanes equipped with cabin pressurization systems intended for operations at airports with elevations at or above 8,000 feet. The FAA considers airports with elevations greater than 8,000 feet as ''high elevation airports.'' Section 25.841(a) still requires that cabin pressure altitudes do not exceed 8,000 feet under normal operating conditions, while the revisions allow cabin pressure altitudes to exceed 8,000 feet during takeoff and landing at high elevation airports. In addition, changes to § 25.841(b)(6) allow applicants to increase the threshold for activation of cabin pressure altitude warnings to altitudes above 10,000 feet, to prevent nuisance warnings to the flightcrew during takeoff and landing at high elevation airports.

Second, this rule amends § 25.1447, ''Equipment standards for oxygen dispensing units,'' for airplanes equipped with passenger oxygen systems intended for operations into or out of airports with elevations above 13,000 feet. The revisions to § 25.1447(c)(5) allow applicants to raise the automatic presentation altitude for oxygen masks located throughout the passenger cabin to altitudes above 15,000 feet while operating out of or into airports with elevations exceeding 13,000 feet.

This final rule affects manufacturers, modifiers, and operators of transport category airplanes. The amendments to §§ 25.841 and 25.1447 eliminate the burden on applicants and the FAA that results from the processing of project-specific equivalent level of safety (ELOS) findings and grants of exemption that are currently necessary for the FAA to approve the designs of cabin pressurization systems and oxygen dispensing units on airplanes intended to be used for operations into or out of high elevation airports.

II. Background

A. Summary of the Problem

Current FAA regulations require that the cabin pressure altitude on transport category airplanes remain at or below 8,000 feet in normal operating conditions, and that supplemental oxygen be automatically presented to passengers before the cabin pressure altitude reaches 15,000 feet. While these standards provide an acceptable level of safety for normal operating conditions, they can hinder or conflict with operations at high elevation airports.

To enable such operations, applicants develop specialized design modifications that often cannot comply with cabin pressurization and supplemental oxygen requirements in FAA regulations. In order to approve such modifications and enable operation into high elevation airports, the FAA typically must make and document an ELOS finding. The FAA must typically also grant an exemption from the automatic oxygen mask presentation requirements for operations into or out of airports with elevations at or above 13,000 feet.

Transport airplane operators currently utilize seven airports in the United States that have an elevation between 8,000 and 10,000 feet. While no airports in the U.S. supporting transport airplane operations are at an elevation higher than 10,000 feet, the FAA is aware of at least five airports in other parts of the world that support transport airplane operations and are at elevations that exceed 13,000 feet. Therefore, it is for operations at these airports that applicants seek either an ELOS or an exemption in order to obtain certification of cabin pressurization and oxygen systems.

B. Discussion of Current Regulatory Requirements

Current regulatory requirements for cabin pressurization systems of transport category airplanes are contained in § 25.841(a) and (b). Section 25.841(a) requires cabin pressurization systems to maintain the interior cabin pressure so that the maximum cabin